

Exhibit 1





MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT

This Master Software License and Services Agreement (this "**Agreement**") is entered into as of the date on which the latter of the parties has validly executed this Agreement ("**Effective Date**") by and between Siemens AG, a German corporation, with its office located at Wittelsbacherplatz 2, 80333 Munich, Germany ("**Customer**"), and VMware International Limited, a company organized and existing under the laws of Ireland, with its principal place of business at Parnell House, Barrack Square, Ballincollig, County Cork, Ireland. ("**VIL**"), as well as VMware, Inc., located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("**VMware, Inc.**"); VIL and VMware, Inc. hereinafter respectively as the case may be referred to as "**VMware**"; Customer, VIL and VMware, Inc. hereinafter referred to individually as "**party**" or collectively as "**parties**". This Agreement describes the terms and conditions pursuant to which VMware will license to Customer and support certain Software products (as defined below).

Unless expressly provided otherwise, all representations, warranties, undertakings, covenants, agreements and obligations made, given or entered into in this Agreement by VMware respectively Customer are made, given or entered into by each VMware entity severally in relation only to itself respectively by Customer severally in relation to VIL or VMware, Inc.. The liability of each VMware entity for any breach of any such representation, warranty, undertaking, covenant, agreement or obligation shall extend only to any loss or damage arising directly from its own breach. For the avoidance of doubt, the aggregate liability of the VMware entities shall be as stipulated in Section 6.6-6.13.

In consideration of the mutual promises and upon the terms and conditions set forth below, the parties agree that (i) Customer may purchase licenses to the Software (as defined below), and purchase the Services (as defined below), directly from VMware or from Customer's Preferred Resellers, under the terms set forth herein, and (ii) Customer's Affiliates may purchase licenses to the Software (as defined below), and purchase the Services (as defined below), from Customer's Preferred Resellers only, provided however that the ordering Affiliate has entered into a Participation Agreement as set forth below. The parties acknowledge and agree that placing a Purchase Order by an Affiliate of Siemens AG under this Agreement will require a "Participation Agreement", substantially in line with the template Participation Agreement attached hereto as Exhibit C. If and to the extent, a Customer Affiliate purchases licenses or services under this Agreement from Customer's Preferred Reseller, the respective Customer Affiliate will be regarded as Customer with respect to this Purchase Order under this Agreement; in no event shall Siemens AG be subject of any claims under any purchase of a Customer Affiliate.

1. **Definitions.** In addition to those terms that may be set forth in the License Types in the Product Guide, the terms ascribed below shall have the following meaning:

1.1 **"Activation Device"** means either a License Key or an alphanumeric activation code used by Customer to register on the VMware Web site to receive a License Key for use of a Software product licensed by Customer.

1.2 **"Affiliate"** means (a) any company, corporation, or entity more than fifty (50) percent of whose shares or other securities or equity interests entitled to vote for the election of directors, other managing authorities and/or any supervisory board are, at the present or future time of determination, held, owned or controlled, directly or indirectly, by a party, but only so long as such holding, ownership or control exists, and (b) any company corporation, or entity having its place of business in a country whose rules prevent the party to own more than fifty (50) percent of such ownership and/or voting rights, provided that the party has the power to direct or cause the direction of the management and policies in such company, corporation, or entity, and (c) only upon VMware's explicit prior written consent, any joint venture company of which a party and/or at least one of the companies, corporations or entities defined in the preceding (a) or (b) will become a shareholder after the Effective Date, provided that a material part of the business activities of such joint venture company will be derived from business activities previously carried out within Customer and/or one of the companies, corporations or entities defined in the preceding (a) or (b).

1.3 **"Customer's Preferred Reseller"** means the two resellers or reseller group of companies as set forth in Exhibit D that Customer has chosen from VMware's authorized resellers with Premier Partner level. Should Customer want to change these two preferred resellers, then Customer shall inform VMware in writing and the parties shall execute an amendment to update Exhibit D.

1.4 **"Documentation"** means any end user manuals or documentation, and on-line help files regarding the use of each Software product that are generally provided by VMware in connection with each Software product, as revised by VMware from time to time.

1.5 **"Guest Operating System"** means instances of third-party operating systems licensed by Customer and installed in a Virtual Machine and run using the Software.

1.6 **"Intellectual Property Rights"** means (by whatever name or term known or designated) trademarks, copyrights, trade secrets, patents, and any other intellectual and industrial property and proprietary rights including registrations, applications, renewals and extensions of such rights.

1.7 **"License Administrator"** means an employee of Customer who is responsible for: (a) facilitating the election and purchase of the Services; (b) receiving and administering License Keys and Upgrades and Updates (as defined in the Service Terms); (c) adherence to the license restrictions of this Agreement, it being understood that this clause shall not be construed to make the License Administrator personally liable in any way under this Agreement; and (d) renewing

Services, if so elected, for Software product licenses for which such individual has been designated the License Administrator. Customer may change its License Administrator upon written notice to VMware at any time.

1.8 **"License Key"** means a serial number or file and accompanying serial number that enables the Customer to activate and use a Software product. Customer may use the License Key to the extent permitted by the applicable license fee model set forth herein (whether such fees are based on a per Processor, a per Virtual Machine, a per user or any other VMware approved licensing model).

1.9 **"License Type"** shall mean the type of license applicable to the Software product, as more fully described in the Product Guide.

1.10 **"Media Kit"** means the packaging, Documentation, and a CD or other media that contains the deactivated Software product object code.

1.11 **"Number of Licensed Copies"** means, with respect to each Software product licensed hereunder, the number of copies of such Software product for which Customer has paid VMware the applicable license fee.

1.12 **"Open Source Software"** or "OSS" means Software components that are licensed under a license approved by the Open Source Initiative ("OSI") or similar open source or freeware licenses and are embedded in the delivered Software.

1.13 **"Processor"** means a single, physical chip that may include multiple cores. The Software may be licensed for use on multiple cores as specified in either the then current applicable price list or the Documentation for the relevant Software.

1.14 **"Product Guide"** means the current version of the VMware Product Guide at the time of Customer's Purchase Order, copies of which are found at www.vmware.com/download/eula.

1.15 **"Purchase Order"** means a purchase order issued by the Customer which has been accepted in writing by VMware pursuant to Section 4.1.

1.16 **"Server"** means a single physical computer of a type that meets the specifications as set forth in the applicable product data sheets or systems compatibility guide posted at <http://www.vmware.com>. Multiple computers that share processing power or operate in a networked configuration as a single logical computer, such as a "server farm" or similar arrangement, constitute multiple Servers for the purpose of this Agreement.

1.17 **"Services"** means technical support and subscription services provided by VMware, as more fully described in the Services Terms.

1.18 **"Service Terms"** means the terms and conditions set forth on Exhibit A under which VMware will provide the Services.

1.19 **"Software"** means the VMware computer programs listed in VMware's commercial price list to which Customer acquires a License under an Order issued

pursuant to this Agreement, and includes the VMware Tools and any Major Releases, Minor Releases and Maintenance Releases (as defined in the Services Terms) that VMware may provide to Customer pursuant to the Services Terms and this Agreement. VMware warrants that it shall not remove a material function in a subsequent version of a Software product provided to Customer through Support and Subscription Services purchased by Customer and remarket it as a separate Software product.

1.20 **"Third Party Agent"** means a third party delivering information technology services to Customer pursuant to a contract with Customer which Customer is able to evidence.

1.21 **"Territory"** means

(a) for licenses purchased by Siemens AG (not its Affiliates): worldwide, unless otherwise defined in the relevant Purchase Order or Enterprise License Agreement (ELA),

(b) for licenses purchased by Affiliates: the country in which the ordering Affiliate has been invoiced; provided, however, that if the Affiliate has been invoiced within any of the European Economic Area member states, Affiliate may deploy the corresponding Software throughout the European Economic Area.

1.22 **"Virtual Machine"** means an instance of a Guest Operating System and any application programs installed thereon, running on a computing device on which a VMware virtualization Software product is installed, or suspended to disk or any other storage media accessible by the computing device.

2. License, Ownership and Delivery

2.1 **License.** Subject to the terms and conditions of this Agreement, including the due payment of the respective applicable license fee VMware hereby grants to Customer a nonexclusive, nontransferable, perpetual (i) except as otherwise expressly set forth in the License Type; (ii) except for licenses that are licensed for a specific term (e.g. subscription licenses); and (iii) except that for Software licensed under an ELA that has not been deployed during the ELA Period) license, without rights to sublicense to: (i) use the Software products, in accordance with the License Type, that Customer purchases according to the Purchase Order, and any restrictions set forth in the Product Guide and, as set forth in this Agreement, for Customer's own internal information processing and computing needs within the Territory; and (ii) use the Documentation for the Software products in connection with the permitted uses thereof. Except as otherwise expressly set forth in this Agreement, no license or other rights in or to the Software, License Key(s) or Documentation, and all intellectual property rights therein, are granted to Customer. All such licenses and rights are hereby expressly reserved.

2.2 **Use of Licenses by Affiliates.** Solely for licenses purchased by Siemens AG (not its Affiliates) and except for unlimited licenses of Software the following shall apply: Customer may allow its Affiliates (as defined herein) to Deploy and use the Software as if it were the "Customer" under this Agreement. For the avoidance of doubt, the number of licenses specified in the Purchase Order is the total number of licenses for the Software which the Customer is entitled to use. Customer shall ensure compliance with the terms of this Agreement with regard to such licenses by each such Affiliate, and any breach by an Affiliate shall be deemed a breach by Customer. The parties shall be free to restrict the Deployment and use of the Licenses by Affiliates in an ELA.

2.3 **Permitted Copies.** Customer may make a reasonable number of machine-readable copies of each Software product for backup or archival purposes only. Customer shall not copy the Software products, except as permitted by this Agreement. All copies of the Software products will be subject to all terms and conditions of this Agreement. Whenever Customer is permitted to copy or reproduce all or any part of the Software products, Customer shall reproduce and not efface any and all titles, trademark symbols, copyright symbols and legends, and other proprietary markings on the Software products.

2.4 **Open Source Software.** Notwithstanding anything herein to the contrary, Open Source Software is licensed to Customer under such OSS's own applicable license terms, which can be found in the open_source_licenses.txt file, the Documentation or, as applicable, the corresponding source files for the Software available at http://www.vmware.com/download/open_source.html. These OSS license terms are consistent with the License granted in Section 2, and may contain additional rights benefiting Customer. The OSS license terms shall take precedence over this Agreement to the extent that this Agreement imposes greater restrictions on Customer than the applicable OSS license terms.

2.5 **Ownership.** VMware and its suppliers retain all right, title and interest in and to the Software products, the Activation Device and the Documentation, and in all related patents, copyrights, trademarks, trade secrets and any other intellectual and industrial property and proprietary rights of whatever nature thereto throughout the world, including registrations, applications, renewals and extensions of such rights.

VMware Master Software License Agreement

2.6 **Delivery and Activation Devices.** VMware shall deliver the corresponding Software to Customer by, at VMware's discretion: (a) on a physical medium; (b) making the Software available for download and emailing the corresponding Activation Device(s); (c) making the Software available for download in a fashion that does not require an Activation Device; or (d) shipping the Software on physical media and emailing the corresponding Activation Device(s). Shipping and delivery terms are for (a) and (b) Ex Works VMware's regional fulfillment facility (INCOTERMS 2010) and for (c) DAP (INCOTERMS 2010). Customer may, at no additional charge, download copies of the Documentation from VMware's website.

2.7 **Third Party Use.** Under the License granted to Customer in Section 2.1 above, Customer may permit its Third Party Agents to access, use and/or operate the Software on Customer's behalf for the sole purpose of delivering services to Customer; provided that Customer shall be fully responsible for its Third Party Agents' compliance with the terms and conditions of the Agreement, and any breach of the Agreement by a Third Party Agent shall be deemed to be a breach by Customer.

3. License Restrictions

3.1 **Guest Operating Systems.** Certain Software products allow Guest Operating Systems and application programs to run on a computer system. Customer acknowledges that Customer is responsible for obtaining and complying with any licenses necessary to operate any such third-party software, including Guest Operating Systems and/or other application programs.

3.2 **Restrictions.** Customer shall not itself, or through any parent, subsidiary, Affiliate, agent or other third party:

(a) sell, lease, license, distribute, sublicense or otherwise transfer in whole or in part, any Software product, the License Keys or the Documentation to a third party (unless such right has been specifically granted in this Agreement or an order document); or

(b) decompile, disassemble, translate, reverse engineer or otherwise attempt to derive source code from the Software products, in whole or in part, nor will Customer use any mechanical, electronic or other method to trace, decompile, disassemble, or identify the source code of the Software products or encourage others to do so, except to the limited extent, if any, that applicable law permits such acts notwithstanding any contractual prohibitions provided, however, before Customer exercises any rights that Customer believes to be entitled to based on mandatory law, Customer shall provide VMware with reasonable prior written notice, in urgent cases, at least thirty (30) days, at info@vmware.com and provide all reasonably requested information to allow VMware to assess Customer's claim and, at VMware's sole discretion, to provide alternatives that reduce any adverse impact on VMware's intellectual property or other rights without undue delay; or

(c) create, develop, license, install, use, or deploy any third party software or services to circumvent, enable, modify or provide access, permissions or rights which violate the technical restrictions of the Software, any additional licensing terms provided by VMware via product documentation, and/or policy change agreed by the parties, and the terms of this Agreement; or

(d) modify or create derivative works or adaptations based upon the Software products; or

(e) permit any use of or access to the Software by any third party; or operate the Software on behalf of or for the benefit of any third party, including the operation of any service that is accessed by a third party, except that, for the purposes of this lit. (e), Customer may use the Software to deliver hosted services to Customer's Affiliates; or

(f) disclose the results of any benchmark test of the Software products to any third party without VMware's prior written approval, unless otherwise expressly permitted herein, provided, however, that the foregoing restriction shall apply to Customer only if Customer is a software or hardware vendor, or Customer is performing testing or benchmarking on the Software at the direction of, or on behalf of, a software or hardware vendor.

3.3 **Audits.** Customer will maintain accurate records as to its compliance with the License Terms and License restrictions as set forth in this Agreement and/or the respective ELA and/or the Product Guide, for at least two (2) years from the last day on which Services expired for the applicable Software product. A reputable, internationally recognized, independent third party auditor appointed by VMware, who is bound to strict confidentiality under the rules of their profession or by contract and bound to the applicable data protection requirements, will, during the period when Customer is obliged to maintain such records, be entitled, by giving at least thirty (30) day prior notice, to inspect such records and Customer's computing devices, in order to verify that the Software products are used by Customer in accordance with the terms of this Agreement and that Customer has paid the applicable license fees and Services fees for the Number of Licensed

Copies of each Software product; provided that VMware may conduct no more than one (1) audit in any twelve (12) month period and further provided that VMware, and any third party auditor, shall not have physical access to Customer's computing devices in connection with any such audit, without Customer's prior written consent. Customer shall promptly pay to VMware any underpayments revealed by any such audit, plus any applicable late payment fees. Any such audit will be performed during normal business hours. VMware shall pay the direct cost of any such audit, excluding all internal costs of the Customer and any like costs, provided that Customer shall promptly reimburse VMware for the direct cost of any such audit if such audit reveals an underpayment by Customer of more than five percent (5%) of the amounts payable by Customer to VMware for the period audited. It is understood that the third party performing the audit shall only reveal to VMware the results of its audit, but in no event any other business information of Customer which he accesses during the audit and shall ensure that any copy of records and data received during such audit shall be deleted afterwards, except that it may retain copies necessary for archival or evidentiary purposes.

4. Purchase Orders, Delivery and Payment

4.1 **Purchase Orders and Payment of Fees.** In consideration of the license granted as set forth herein, and in consideration of the Services provided to Customer, Customer shall pay VMware the license fees and/or fees for Services due hereunder. All Purchase Orders placed with VMware for the Software products will be subject to VMware's written acceptance, and no Purchase Order will be binding upon VMware until the earlier of the date of VMware's written acceptance of such Purchase Order or the date of shipment of the Software products included in such Purchase Order. Upon VMware's written acceptance of a Purchase Order from Customer to purchase additional licenses, or upon shipment of the Software products included in Customer's Purchase Order, VMware shall invoice Customer for the applicable license fees and fees for the Services, if applicable. It shall be the responsibility of Customer to ensure its Purchase Orders to VMware for the Software products and Services reflect the pricing set forth in the then current VMware commercial price list. Customer agrees that Purchase Orders do not have to be signed to be valid and enforceable. Orders for delivery by VMware to the United States must be identified as such, and issued to VMware, Inc.; and orders for delivery by VMware outside of the United States must be identified as such, and issued to VIL.

4.2 For purposes of revenue recognition, Customer confirms that all Software Products shall be deemed "accepted and delivered" upon shipment by VMware as described in Section 2.6 lic a-c above. All fees are non-refundable, except as permitted under Section 6.2 or elsewhere in this Agreement.

4.3 **Taxes.** All charges and fees provided for in this Agreement are exclusive of any taxes, duties, or similar charges imposed by any government. Customer shall pay or reimburse VMware for all federal, state, dominion, provincial, or local sales, use, personal property, withholding, excise or other taxes, fees, or duties arising out of this Agreement or the transactions contemplated by this Agreement (other than taxes on the net income of VMware). If Customer is required to pay any withholding tax, charge or levy in respect of any payments due to VMware hereunder, Customer agrees to gross-up payments actually made such that VMware shall receive sums due hereunder in full and free of any deduction for any such withholding tax, charge or levy. In the event that such taxes or duties are legally imposed initially on VMware or VMware is later assessed by any taxing authority, then VMware will be promptly reimbursed by Customer for such taxes or duties plus any interest and penalties suffered by VMware. VMware shall work with Customer to obtain and file proper documentation where available to obtain withholding tax exemption or reduced withholding tax rate under a tax treaty. Customer's tax department shall reasonably assist VMware in obtaining such tax exemption.

4.4 **Payment Terms.** Customer shall pay all invoices issued by VMware under this Agreement within sixty (60) days of the printed date of the invoice. All amounts that are not paid by Customer as required by this Agreement and after Customer has been notified in writing (including email) about such outstanding payment shall be subject to a late charge equal to 5% per annum which shall be VMware's sole remedy for delayed payment, but any termination rights for breach or statutory rights of VMware shall remain unaffected. If payment of any fee is overdue, VMware may only suspend provision of the Services until such delinquency is corrected and after having provided Customer with written notice of such delinquency and allowing Customer thirty (30) days to cure. If Customer, in good faith, disputes any invoice issued by VMware hereunder, Customer shall provide VMware with written notice of such dispute within thirty (30) days of the date of such invoice. Such written notice shall specify the reasons for such dispute by Customer, and the parties shall negotiate in good faith to resolve the dispute as soon as reasonably practicable. Customer may withhold payment of any disputed amount until the dispute is resolved or until ten (10) days after either party notifies the other, in writing, that it believes resolution of the dispute is unlikely without resort to formal dispute resolution processes.

4.5 **Purchases through Customer's Preferred Resellers.** The terms of this Agreement related to delivery, pricing, payment, VMware shall not apply to any purchases of Software Licenses and/or Services (including any renewal of Services) through Customer's Preferred Resellers, and Customer and its Affiliates, as applicable, shall establish such terms independently with Customer's Preferred Reseller.

5. **Support and Subscription Services.** The Services shall be provided to Customer in accordance with the Service Terms.

6. Limited Warranty and Limitation of Liability

6.1 VMware warrants to Customer that, for a period of twelve (12) months following shipment of the Software product ("Warranty Period"): (a) the media, if any, on which each Software product is delivered will be free of defects; and (b) each Software product will substantially conform to the description contained in the Documentation delivered together or made available in conjunction with the respective Software.

6.2 If during the Warranty Period the Software product does not conform to the foregoing warranties, VMware shall, at its option, correct the defects in the Software product within a reasonable period of time or refund to Customer the license fees related to the defective Software product and cancel the applicable Purchase Order. Any additional period to remedy defects in respect of the Services shall remain unaffected. If and to the extent VMware has failed to correct a defect, Customer may at its discretion elect (a) to terminate the respective Purchase Order and to claim from VMware the refund of the license fees attributable to the defective copies or (b) to pay only a reduced amount of license fees which are reduced proportionately to the reduced quality of the Software and/or Documentation. Further damages claims of the Customer shall not be excluded, but be limited in accordance with Section 6.6 et seq..

6.3 VMware further warrants that the Services to be performed hereunder will be done in a workmanlike manner and shall conform to standards of the industry.

6.4 Subject to Sections 6.6 et seq., the remedies in Section 6.2 are Customer's sole and exclusive remedies for breach of warranty and VMware's sole and exclusive liability for breach of warranty.

6.5 **Disclaimer.** Any warranties under Sections 6.1 and 6.3 and any statements or special agreements regarding the quality of the Software shall not be deemed a guarantee of quality or durability as defined by § 443 of the German Civil Code (Bürgerliches Gesetzbuch).

6.6 **Limitation of Liability.** Each party's liability for claims arising out of this Agreement, regardless of whether such liability arises in contract, tort including negligence, misrepresentation, strict liability, or otherwise

- (i) shall not exceed per damaging event 250.000 EUR; and
- (ii) shall not exceed in the aggregate per Contract Year for all claims arising from such damaging events during such Contract Year 100% of the fees directly paid by Customer to VMware during such Contract Year under direct Purchase Orders to VMware under this Agreement, but in no event less than 250.000 EUR per Contract Year. "Contract Year" shall hereby mean the 12 month period following the Effective Date of this Agreement or following any anniversary of such Effective Date, respectively.

6.7 NEITHER CUSTOMER NOR VMWARE (INCLUDING VMWARE'S LICENSORS) SHALL HAVE LIABILITY TO THE OTHER (WHETHER SUCH LIABILITY ARISES IN CONTRACT, TORT INCLUDING NEGLIGENCE, MISREPRESENTATION, STRICT LIABILITY, UNDER AN INDEMNITY OR OTHERWISE) FOR ANY:

- (i) LOSS OF PROFITS,
- (ii) LOSS OF REVENUES,
- (iii) LOSS OF DATA AND/OR USE OF DATA, THAT COULD HAVE BEEN AVOIDED THROUGH APPROPRIATE BACK-UPS BY CUSTOMER,

EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

6.8 Customer is obliged to make back-up-copies of its data at regular intervals, but at least once per day. Failure to comply with this obligation shall be deemed contributory negligence. To the extent VMware's liability for loss of data is not anyway excluded or limited under this Agreement, VMware shall be liable for such loss of data only to the extent of the typically required expenses to recover the data which would have accrued if Customer had appropriately backed up its data and shall not exceed the limits as set forth in Section 6.6 above.

6.9 To the extent the liability of the Parties for indirect and consequential damages is not anyway excluded or limited under this Agreement, the Parties shall only be liable for such damages arising from a breach of a major obligation where the breach jeopardizes the purpose of the contract, in which case the liability shall be limited to contract typical, foreseeable damages and shall not exceed the limits as set forth in Section 6.6 above.

6.10 VMWARE'S LICENSORS SHALL HAVE NO LIABILITY OF ANY KIND UNDER THIS AGREEMENT AND VMWARE'S LIABILITY WITH RESPECT TO ANY THIRD PARTY SOFTWARE EMBEDDED IN THE SOFTWARE SHALL BE SUBJECT TO SECTIONS 6.6-6.13 AND 7.

6.11 NEITHER PARTY SHALL BRING ANY CLAIM BASED ON A SOFTWARE PRODUCT OR SERVICE PROVIDED HEREUNDER MORE THAN TWENTY-FOUR (24) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

6.12 The provisions of Sections 6.6 to 6.13 inclusive allocate risks under this Agreement between Customer and VMware. VMware's fees for the Software Products and Services reflect this allocation of risks and limitation of liability and the parties acknowledge and agree that the allocation of risk is reasonable in the circumstances.

6.13 Nothing in this Agreement shall operate so as to limit or exclude:

- (a) either party's liability for willful misconduct or any type of negligence in respect of death or personal injury;
- (b) either party's liability for fraudulent misrepresentation or any other form of willful misconduct, or for grossly negligent behavior
- (c) any mandatory liability under the German Product Liability Act (Produkthaftungsgesetz);
- (d) either party's liability of Section 7 (Indemnification);
- (e) Customer's liability for breach of VMware's or its licensor's Intellectual Property Rights or use of the Software by Customer in a manner not expressly authorized by this Agreement;
- (f) either party's breach of Section 9.14 (Confidentiality); or
- (g) for any guarantees explicitly given.

7. Indemnification

7.1 Indemnity by VMware.

7.1.1 **Indemnity.** Subject to the remainder of Section 7.1, VMware shall defend Customer against any third party claim that a Software product infringes any trademark, trade secret, or any patent in Argentina, Venezuela, Saudi Arabia or a contracting state (momentarily round about 146 states) of the Patent Cooperation Treaty (PCT), any copyright in a state that is a party to the Berne Convention (momentarily round about 165 states) ("Infringement Claim"), and indemnify Customer from the resulting costs and damages awarded against Customer to the third party making such Infringement Claim, by a court of competent jurisdiction or agreed to in settlement; provided that Customer (i) notifies VMware in writing of such Infringement Claim without undue delay, (ii) grants VMware (directly and if legally not possible according to statutory procedural rules indirectly) sole control over the defense and settlement thereof provided that Customer shall have the right to passively participate in any litigation and/or settlement negotiations and therefore employ separate counsel at its own expense, (iii) reasonably cooperates in response to a VMware request for assistance, and (iv) Customer does not make any admission of liability or otherwise prejudice the defense or settlement of the Infringement Claim. VMware will have the exclusive right to defend any such Infringement Claim and make settlements thereof at its own discretion, and Customer may not settle or compromise such Infringement Claim, except with prior written consent of VMware.

7.1.2 **Options.** Should any Software product(s) become, or in VMware's opinion be likely to become, the subject of such an Infringement Claim, VMware shall, at its option and expense, (a) procure for Customer the right to make continued use thereof, (b) replace or modify such so that it becomes non-infringing, or (c) request return of the Software product(s) and, upon receipt thereof, the corresponding licenses are terminated and VMware shall refund the price paid by Customer, less straight-line depreciation based on a three (3) year useful life, or discontinue the Service and refund the portion of any pre-paid Service fee that corresponds to the period of Service discontinuation.

7.1.3 **Exclusions.** VMware shall have no liability under the indemnity in Section 7.1.1 to the extent the alleged infringement is based on (1) combination with non-VMware products, provided, however, that third party products delivered by VMware with the Software and unmodified by Customer shall not be deemed to be non-VMware products, for purposes of the foregoing exclusion, (2) use for a purpose or in a manner for which the Software product was not designed, (3) use of any older version of the Software product when use of a newer VMware revision

would have avoided the infringement provided that VMware must have informed the Customer of such potential third party claim in advance of the claim, (4) any claim made with VMware's written approval, (5) any modifications made by VMware pursuant to Customer's specific instructions, unless otherwise mutually agreed to by the parties in writing, or (6) any intellectual property right owned or licensed by Customer, excluding the Software, (7) any claim that relates to open source software or freeware technology or any derivatives or other adaptations thereof that is not embedded by VMware into Software (as defined herein), or (8) any claim that relates to Linux or Android open source software, even if it has been embedded into or distributed with the Software.

7.1.4 **Limitation.** THIS SECTION 7 STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND VMWARE'S ENTIRE LIABILITY FOR INFRINGEMENT CLAIMS REGARDING ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHTS.

7.2 **Indemnity by Customer.** Customer shall defend, indemnify, and hold VMware harmless against any and all third-party claims, lawsuits, and demands that arise out of any breach by Customer of its obligations under Section 3.1. Section 7.1 shall apply analogously.

8. Term and Termination

8.1 **Term.** This Agreement will take effect on the Effective Date and will remain in force for a period of one (1) year thereafter, unless otherwise terminated in accordance with this Agreement. Thereafter the Agreement will automatically renew in one (1) year increments unless either party terminates the Agreement by providing written notice to the other at least sixty (60) days prior to the anniversary of the Effective Date. The Services may be renewed by Customer for successive one (1) year terms in accordance with the Service Terms.

8.2 **Termination by Customer.** Customer may, at its option, by written notice to VMware, terminate this Agreement and/or the applicable Purchase Order, upon thirty (30) days prior written notice, if (i) VMware is in breach of any material provision of this Agreement and/or the applicable Purchase Order, and such breach is not cured within thirty (30) days after Customer gives VMware written notice of breach; or (ii) if VMware is in breach of any material Provision of this Agreement and/or the applicable Purchase Order that is not capable of being cured. Damage claims of the Customer based on such breach, in accordance with the limitations of this Agreement, shall remain unaffected.

8.3 **Termination by VMware.** VMware may, at its option, by written notice to Customer:

- (a) terminate this Agreement if (i) Customer itself is in breach of any material provision of this Agreement and such breach is not cured within thirty (30) days after VMware gives Customer written notice of such breach; or (ii) Customer is in breach of any material provision of this Agreement that is not capable of being cured; or
- (b) terminate the respective Purchase Order and the connected Software product license and Services if Customer fails to pay the respective license fees or Services fees due to VMware within thirty (30) days after VMware gives Customer written notice of such nonpayment, unless the Customer is not acting in default; or
- (c) terminate one or more of Customer's Licenses (and the Support Services for the applicable Software) if (i) Customer materially breaches any of the terms of Sections 2.1, 2.2, 2.3, 2.4, 2.5, 2.7 or 3.2 of this Agreement with regard to such License and does not cure the breach within thirty (30) days after receiving written notice thereof from VMware, provided however that, for the avoidance of doubt, VMware's termination right shall be limited to the Licenses for the product(s) affected from such breach.

8.4 **Termination for Insolvency.** The parties may, by written notice to the other party, and at its option, terminate this Agreement if any of the following occur in respect of the party against which the termination right is being exercised (i) a meeting of its creditors, or an arrangement or composition with or for the benefit of its creditors is proposed; (ii) a chargeholder, receiver, administrative receiver or other similar person taking possession of or is appointed over its assets or any distress, execution or other process is levied on any of its assets; (iii) it ceases to carry on business or is deemed to be unable to pay its debts; (iv) a petition is presented (and not being discharged within 28 days) or a resolution is passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of the Customer; or (v) the happening in relation to it of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

8.5 **Effect of Termination.** If any Termination Event occurs, termination will become effective immediately or on the date set forth in the written notice of termination. Articles 1, 3, 6, 7 and 9 and Sections 2.4, 2.5, 4.3 and 8.5 will survive termination or expiration of this Agreement or the applicable Software product license. In addition, Sections 2.1, 2.2, 2.3 and 2.7, and the license terms set forth in the License Type, each subject to the restrictions in Section 3 and the License

Type, will survive termination or expiration of this Agreement, to the extent Customer has paid the applicable license fees for such Software products. The Service Terms will survive termination or expiration of this Agreement for Service contracts effective on the date of termination or expiration until the expiration date of the respective Service contract(s).

9. Miscellaneous

9.1 **No Assignment.** This Agreement and any rights or obligations of a party under it may not be assigned, subcontracted or otherwise transferred by such party, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of the respective other party, which consent will not be unreasonably withheld. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns. Affiliates of either party shall not be deemed "third parties" for the purposes of this Section 9.1, provided the party relying on this exception reasonably demonstrates to the other party that its applicable Affiliate is in a position to perform all respective rights and obligations under this Agreement.

9.2 **Notices.** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by first class registered mail, or air mail, as appropriate, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address set forth below. Either party may change its address for notice by notice to the other party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, five (5) business days after deposit in the mail as set forth above, or two (2) days after delivery to an overnight air courier service. Notices shall be sent to:

If to VMware:

VMware, International Limited
Parnell House
Barrack Square
Ballincollig, County Cork
Ireland
Attn: Corporate Controller
Fax: +353 21 466 0001

With a copy sent to:

VMware, Inc.
3401 Hillview Avenue
Palo Alto, California 94304
Attn: Chief Financial Officer
Fax: +1 (650) 475-5101

And a copy sent to:

VMware, Inc.
3401 Hillview Avenue
Palo Alto, California 94304
Attn: General Counsel
Fax: +1 (650) 475-5101

If to Customer:

Siemens AG
Otto-Hahn-Ring 6
81739 München
Attn: Marco Gentili
Phone: 089-636-32910
Fax: 089-636-13-32910
E-Mail: gentili.marco@siemens.com

If the above details in respect of the Customer are not filled in completely and accurately, VMware may send notices to the registered office, corporate or

management seat, any place of business or other Customer location reasonably selected by VMware.

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9.3 **No Warranties.** No employee, agent, representative or affiliate of VMware has authority to bind VMware to any oral representations or warranty concerning the Software products.

9.4 **Force Majeure.** Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquake, fire and explosions, but the inability to meet financial obligations is expressly excluded.

9.5 **Waiver.** Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

9.6 **Severability.** If any provision in this Agreement (including, without limitation, the prohibition on de-compiling or reverse engineering) is found to be invalid, unlawful or unenforceable the remaining terms will continue to be valid and enforceable to the fullest extent permitted by law.

9.7 **Integration.** This Agreement (including the Exhibits) contain the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written. Without limiting the foregoing, this Agreement will supersede any conflicting terms in any "click-to-accept" end user license agreement that may be embedded within the Software products, except for terms regarding Open Source Software which are incorporated herein by reference under Section 2.4 (Open Source Software). This Agreement may not be amended, except by a writing signed by both parties; deviation from this requirement must also be agreed in writing. In case of any contradictions between the provisions of the Agreement and an Exhibit or between the provisions of the Agreement and a Purchase Order the following order of precedence shall apply in descending order: Purchase Order, Exhibits and main text of the Agreement.

9.8 **Purchase Orders.** No terms, provisions or conditions of any Purchase Order, acknowledgement or other business form that the parties may use in connection with the sale or acquisition or licensing of the Software products (e.g. general terms & conditions) will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of the other party to object to such terms, provisions or conditions. Any such additional or conflicting terms and conditions on any Customer Purchase Order, acknowledgement or other business form are hereby rejected by the parties.

9.9 **Government Regulations.** Customer may not export or re-export the Software products except in compliance with the United States Export Administration Act and the related rules and regulations and similar non-U.S. government restrictions, if applicable. The Software products and accompanying Documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Software products and Documentation by the U.S. Government shall be governed solely by the terms of this Agreement.

9.9.1 **Export Control.** Customer understands and acknowledges that VMware is subject to regulation by agencies of the United States Government, including, but not limited to, the U.S. Department of Commerce, which prohibit export or diversion of certain products and technology to certain countries. Any and all obligations of VMware to provide the Software, as well as any other technical information or assistance shall be subject in all respects to such United States laws and regulations as shall from time to time govern the license and delivery of technology and products abroad by persons subject to the jurisdiction of the United States, including the Export Administration Act of 1979, as amended, any successor legislation, and the Export Administration Regulations issued by the Department of Commerce, Bureau of Export Administration. Customer agrees to cooperate with VMware including without limitation, providing required documentation, in order to obtain export licenses or exemptions therefrom. Each party warrants that it will comply with the Export Administration Regulations and other United States and foreign laws and regulations governing exports, including but not limited to respective regulations of the European Union and any applicable local laws, in effect from time to time.

9.9.2. For all Software to be delivered, VMware shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations")

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and shall obtain all necessary export licenses, unless Customer or any party other than VMware is required to apply for the export licenses pursuant to the applicable Foreign Trade Regulations.

9.9.3. VMware shall publish its export classification information at www.vmware.com/help/export-control.html. Company can utilize information published to comply with all Foreign Trade Regulations for the Software applicable in the countries of export and import. In any case, VMware shall provide to Customer for the Products the following "Export Control and Foreign Trade Data", to the extent applicable:

- (a) The "Export Control Classification Number" according to the U.S. Commerce Control List (ECCN) if the Product is subject to the U.S. Export Administration Regulations; and
- (b) all applicable export list numbers; and
- (c) the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
- (d) the country of origin (non-preferential origin); and
- (e) upon the request of Company, VMware's declaration for preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers)

9.9.4. In case of any alterations to origin and/or characteristics of the Software and/or to the applicable Foreign Trade Regulations VMware shall update the Export Control and Foreign Trade Data as early as possible.

9.10 **Currency.** All license and Service fees shall be in the currency specified in the relevant Purchase Order.

9.11 **Language.** This Agreement is in the English language only, which shall be controlling in all respects. Any versions of this Agreement in any other language shall be for accommodation only and shall not be binding upon either party. All communications, notices, and documentation to be furnished hereunder shall be in the English language only.

9.12 **Independent Contractors.** The relationship of VMware and Customer established by this Agreement is that of independent contractors. Nothing contained herein shall constitute either party the agent of the other party, or otherwise grant either party the authority to bind the other party to any obligation, or constitute the parties as partners or joint venturers and neither party shall hold itself out as being an agent having such authority. Customer shall make no representations or warranties on behalf of VMware with respect to the Software products.

9.13 **Publicity.** Customer grants VMware the permission to use the Siemens name and logo on VMware's website and reference list as a reference indicating VMware's business relationship with Siemens AG. This grant of permission may be withdrawn at any time and is limited to the duration of this Agreement. On termination of this Agreement, VMware must remove the Siemens logo immediately from the relevant advertising and information material. Advertising or similar material carrying the Siemens logo must no longer be used from then on. The Siemens logo must be used in accordance with the trademark and logo usage guidelines provided by Customer. The manner in which VMware uses the Siemens logo must reflect clearly the nature of the business relationship. In addition, VMware must ensure that VMware does not in any way create the impression that Siemens is the manufacturer of VMware's products. VMware shall be liable to Customer for any damages arising from third-party claims due to VMware's creating the impression that Siemens is the manufacturer of VMware's products. In addition, VMware is obligated to inform Customer, on request and at any time, about the purposes for which, and the material in which, the Siemens logo is being used. Appropriate documentation must be supplied to Customer on request and at no charge.

9.14 Confidential Information

9.14.1 The term "Confidential Information" means information or materials provided by one party to the other which are in tangible form and labeled "confidential" or the like, or, if disclosed orally, are identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, are summarized, appropriately labeled and provided in tangible form. The following information shall be considered Confidential Information whether or not marked or identified as such: (i) the License Key, and (ii) information regarding either party's pricing, product roadmaps and strategic marketing plans.

9.14.2 The receiving party shall not: (i) disclose any Confidential Information to any third party, except as otherwise expressly permitted herein; (ii) make any use of Confidential Information except: (a) to exercise its rights and perform its obligations under this Agreement; or (b) in connection with the parties' ongoing business

relationship; or (iii) make Confidential Information available to any of its employees or consultants except those that have agreed to obligations of confidentiality at least as restrictive as those set forth herein and have a "need to know" such Confidential Information. The receiving party shall be held to the same standard of care as it applies to its own information and materials of a similar nature, and no less than reasonable care. The receiving party may disclose the other party's Confidential Information to the extent such disclosure is required by order or requirement of a court, administrative agency, or other governmental body, but only if the receiving party provides prompt written notice thereof to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Affiliates of the Customer and VMware shall not be deemed "third parties" for the purposes of this Section provided that the Affiliates have agreed to obligations of confidentiality at least as restrictive as those set forth herein. The receiving party shall protect Confidential Information in the manner provided herein for three (3) years after receipt thereof, unless such obligation ceases earlier pursuant to Section 9.14.3 below, provided, however, that the License Key shall be kept in confidence pursuant to this Agreement in perpetuity.

9.14.3 Confidential Information excludes information that: (i) was in the public domain at the time it was disclosed or has become in the public domain through no fault of the receiving party; (ii) was known to the receiving party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) is disclosed with the prior written approval of the disclosing party; (iv) was independently developed by the receiving party without any use of Confidential Information of the disclosing party; or (v) becomes known to the receiving party, without restriction, from a source other than the disclosing party.

9.15 **Data Privacy.** For the purposes of this Section 9.15 the term "personal data", "controller", "processor" and "process" shall have the meaning given to them by Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data ("Privacy Directive").

9.15.1 Customer agrees that VMware may process technical and related information about Customer's use of the Software which may include internet protocol address, hardware identification, operating system, application software, peripheral hardware, and non-personally identifiable Software usage statistics to facilitate the provisioning of updates, support, invoicing or online services and may transfer such information to other companies in the VMware worldwide group of companies from time to time. To the extent that this information constitutes personal data, VMware shall be the controller of such personal data, for the avoidance of doubt such personal data shall be deemed confidential and be deleted when no longer required by VMware.

9.15.2 To the extent that it acts as a controller, each party shall comply at all times with its obligations under the local legislation applicable in the Territory for the protection of individuals with regard to the processing of personal data (the "Privacy Law"), deriving or not from the Privacy Directive.

9.15.3 If applicable to the respective individual agreement, the parties will agree upon the terms of data processing.

9.16 **Counterparts.** This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. This Agreement may be executed and delivered by facsimile and the parties agree that such facsimile execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each party may use such facsimile signatures as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.

9.17 **Governing Law.** This Agreement will be governed by the laws of the Federal Republic of Germany, without regard to conflict of law principles. The U.N. Convention on the International Sale of Goods shall not apply. The parties hereby consent to the exclusive jurisdiction of the courts of Munich for resolution of any disputes arising out of this Agreement.

9.18 Notwithstanding the foregoing, either party (including its Affiliates) may seek injunctions to prevent and/or stop any breach of, and otherwise enforce, its intellectual property rights of whatever nature and/or rights in confidential information in the courts of any country, state or other territory which accepts jurisdiction.

9.19 **Headings.** The headings in this Agreement are for purposes of reference only and will not in any way limit or affect the meaning or interpretation of any of the terms hereof.

10. Compliance with VMware Business Conduct Guidelines

VMware shall comply with the principles and requirements of the VMware Business Conduct Guidelines attached hereto as Exhibit B ("Code of Conduct"). The parties agree that the total and entire liability of VMware for a breach of the Code of Conduct, however arising, shall be governed by Section 6 of this Agreement.

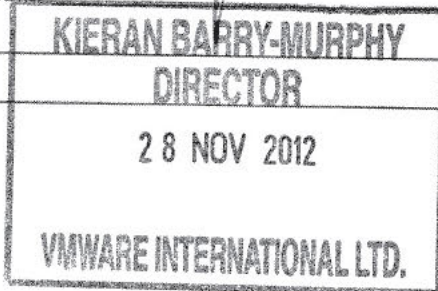
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VMware Contract # 101299

IN WITNESS WHEREOF, Customer and VMware have caused this Agreement to be signed by their duly authorized representatives, effective as of the Effective Date.

Customer	Customer
By: <u>[Signature]</u>	By: <u>[Signature]</u>
Print Name: <u>NORBERT KLEINJOHANN</u>	Print Name: <u>EVA-MARIA KORBACHER</u>
Title: <u>CEO of CIT</u>	Title: <u>CEO of CIT</u>
Date: <u>27.11.2012</u>	Date: <u>27.11.2012</u>

VMware International Limited	VMware, Inc.	
By: <u>[Signature]</u>	By: <u>Luis A. Mata</u>	Digitally signed by Luis A. Mata, Senior Contracts Administrator Date: 2012.11.28 08:08:45 -08'00'
Print Name: <u>KIERAN BARRY-MURPHY</u>	Print Name: <u>Luis A. Mata</u>	
Title: <u>DIRECTOR</u>	Title: <u>Sr. Contracts Administrator</u>	
Date: <u>28 NOV 2012</u>	Date: <u>November 28, 2012</u>	



Approved by MM
for DW and
Date: 28.11.12

EXHIBIT A

VMware Contract # 101299

SERVICES TERMS**I. Description of Services Offerings for all Software:**

Feature	Basic Support	Production Support	Mission Critical Support	Desktop Standard Support	Per Incident Support
Hours of Operation	12 Hours/Day Monday-Friday*	24 Hours/Day 7 Days/Week 365 Days/Year*	24 Hours/Day 7 Days/Week 365 Days/Year*	12 Hours/Day Monday-Friday	12 Hours/Day Monday-Friday
Length of Service	1 or 3 Years	1 or 3 Years	1 or 3 Years	1 or 3 Years	Valid for one year after purchase of the per support incident
Product Updates	✓	✓	No (provided as part of the required Production Support)	✓	N/A
Product Upgrades	✓	✓	No (provided as part of the required Production Support)	✓	N/A
Products Supported	All Products (excluding VMware Fusion, VMware Player, and Zimbra)	All Products (excluding VMware Fusion, VMware Player, and Zimbra)	All products (excluding VMware Fusion™, VMware Workstation, VMware Player, the VMware vFabric product family, SpringSource, Gemstone, Zimbra, VMware vCenter Request Manager, VMware vCenter Configuration Manager, VMware vCenter Application Discovery Manager, VMware Service Manager, VMware vCenter Operations, VMware Go Pro, Socialcast On Prem Platform, IT Business Management and IT Financial Management). This list may be updated by VMware periodically.	VMware Fusion Only	VMware Hypervisor (ESXi), VMware vSphere Essentials**, VMware ACE Starter Kit, Workstation, vCenter Converter Standalone, and VMware Fusion
Method of Access	Telephone/Web	Telephone/Web	Telephone/Web	Telephone/Web	Telephone/Web
Response Method	Telephone/E-Mail	Telephone/E-Mail	Telephone/E-Mail	Telephone/E-Mail	Telephone/E-Mail
Remote Support	✓	✓	✓	N/A	N/A
Access to VMware Web Site	✓	✓	✓	✓	✓
Access to VMware Discussion Forums and Knowledge Base	✓	✓	✓	✓	✓
Maximum Number of Customer technical contacts per Contract ***	4	6	Unlimited	4	N/A
Number of Support Requests	Unlimited	Unlimited	Unlimited	Unlimited	Note 1
Target Response Times:					Note 1
Critical (Severity One)	4 business hours	30 minutes or less; 24x7	30 minutes or less; 24x7	4 business hours	
Major (Severity Two)	8 business hours	4 business hours	2 business hours; 12x7	8 business hours	
Minor (Severity Three)	12 business hours	8 business hours	4 business hours; 12x5 (M-F)	12 business hours	
Cosmetic (Severity Four)	12 business hours	12 business hours	8 business hours; 12x5 (M-F)	12 business hours	
			Geography Option - 5 days per year (not to exceed 4 trips per year) Global Option - 15 days per year (not to exceed 15 trips per year)		

Business Hours	Monday - Friday
North America & Latin America	6 a.m. – 6 p.m. (Local Time Zone)
Alaska, Hawaii	6 a.m. – 6 p.m. (PST/PDT)
South America (NASA)	6 a.m. – 6 p.m. (EST/EDT)
Europe, Middle East, Africa (EMEA)	7 a.m. – 7 p.m. (GMT)
Asia Pacific, Japan (APJ)	8:30 a.m. – 8:30 p.m. (Singapore Time)
Australia/New Zealand	7 a.m. – 7 p.m. (Sydney AET)

*Business hours of operation for Services for Gemstone Software are Monday-Friday, 8:00 a.m. – 5:00 p.m. (PDT/PST). For Gemstone Software covered by Production level Services, Severity One issues are responded to on a 24x7 basis. VMware reserves the right to expand the hours of coverage without notification or amendment of these Services Terms.

*Business hours of operation for Fusion Software are Monday-Friday, 6:00 a.m. – 6:00 p.m. (PDT/PST).

*Business hours of operation for IT Business Management and IT Financial Management products are Monday-Friday, 8:00 a.m. - 5:00 p.m. (EDT/EST), except holidays.

*Business hours of operation for vCenter Protect products are Monday-Friday, 7:00 a.m. – 7:00 p.m. (CDT/CST), except holidays

*For the purposes of calculating response times, business hours for Socialcast On Premise Platform are Monday-Friday, 6:00 a.m. – 6:00 p.m. (PDT/PST).

**Per Incident support for VMware vSphere Essentials is not available for VMware ESXi or VMware vCenter Server licenses sold as part of the Foundation, Standard or Enterprise bundles. Per Incident support is not available for VMware vSphere 4 Essentials for Retail and Branch Offices or VMware vSphere 4 Essentials Plus for Retail and Branch Offices; Basic and Production support are available for these products.

***Instead of natural technical contacts Customer may choose to nominate email aliases as technical contacts.

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Note 1: The following terms and conditions apply to Per Incident Support:

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- (a) Number of Support Requests Purchasable: 1, 3 and 5 incident packs for VMware vSphere Hypervisor, ACE Starter Kit, Workstation, Fusion; 1 incident for vCenter Converter Standalone.
- (b) Target Response Time: VMware vSphere Hypervisor is four (4) business hours for Severity One issues, and next business day for all other Severities. VMware ACE Starter Kit, Workstation, Fusion, and VMware Center Converter Standalone is one (1) business day for all Severities.

Note 2: Business Critical Support is offered as a supplement to VMware Production Support. The following terms and conditions apply to Business Critical Support:

- (a) Designated Support Team: With the VMware Business Critical Support Option, a designated team of support engineers is assigned to support Customer.
Direct Routing to Senior Level Engineers: All Support Requests filled online will be owned and worked by Customer's designated support team. Support Requests filed by telephone will bypass Level One and will be routed to a support queue that is staffed by Customer's designated support team during local business hours and by a pool of senior level engineers during off hours.
- (c) Customer Site Profile: A primary contact on Customer's designated VMware support team will work with Customer to draft a support reference document outlining Customer's virtual architecture implementation. This reference document will be used by all VMware team members supporting Customer's account.
- (d) Customer Support Plan: A primary contact on Customer's designated VMware support team will work with Customer to document a detailed support plan outlining points of contact and key processes.
- (e) Root Cause Analysis: Should there be an outage that affects system availability, VMware Global Support Services will, upon Customer's request, work to provide formal root cause analysis for Customer's Severity One Support Requests. VMware will use commercially reasonable efforts to work with Customer and third parties as necessary to provide a resolution where possible. Root cause analysis and log file review by its nature does not always result in a conclusive resolution.
- (f) Prerequisites: Requires VMware Production Support in place for all VMware products to be covered and supported under VMware Business Critical Support. One (1) customer contact must be a VMware Certified Professional (VCP). Requires premium support for Third Party Products. A Technical Account Manager (TAM) is highly recommended.
- (g) Support for Migration and Updates: Support processes may be arranged to cover any time sensitive issues that might occur during Customer's planned migration or upgrades.
- (h) Log File Review: Customer's primary contact will conduct up to ten (10) detailed log file reviews for each contracted Customer team with the goal of identifying potential risk and corrective action.
- (i) Monthly Support Review Meetings: Customer's primary contact will conduct a monthly support review meeting. The context of this meeting will include Support Request trend analysis and root cause analysis reporting on specific issues.

Note 3: The following terms and conditions apply to Mission Critical Support:

- (a) Prerequisites: Requires VMware Production Support in place for all VMware products to be covered and supported under VMware Mission Critical Support. One (1) customer contact must be a VMware Certified Professional (VCP). Requires premium support for Third Party Products. A VMware Technical Account Manager (TAM) is required.
- (b) Unlimited Support Administrators: When Customer purchases the Geography option, the designated geography will be entitled to Unlimited Support Administrators. All other Geographies will be covered by, and adhere to, the support requirements for the purchased support level in that geography.
- (c) Direct Routing to Senior-level Engineers: Support Requests filed by telephone will bypass Level One and will be routed to a support queue that is staffed by senior-level engineers.
- (d) Customer Site Profile: A designated contact on the VMware support team will work with Customer to draft a support reference document outlining Customer's virtual architecture implementation. This reference document will be used by all VMware team members supporting Customer's account.
- (e) Customer Support Plan: A designated contact on VMware support team will work with Customer to document a detailed Support Plan outlining points of contact and key processes.
- (f) Root Cause Analysis: Should there be an outage that affects system availability, VMware Global Support Services will, upon Customer's request, work to provide formal root cause analysis for Customer's Severity One Support Requests. VMware will use commercially reasonable efforts to work with Customer and third parties as necessary to provide a resolution where possible. Root cause analysis and log file review by its nature does not always result in a conclusive resolution.
- (g) Regular Support Review Meetings: A designated contact on VMware's support team will conduct a monthly support review meeting. The context of this meeting will address questions or concerns about Customer's environment and assist with ongoing projects, planned migrations and updates.
- (h) Business Reviews: VMware will deliver regular Business Reviews to provide trend analysis, reporting and feedback based on Customer's support activity. VMware will also deliver information regarding the latest best practices and white papers, information about patches and updates, knowledgebase articles related to Customer's VMware solutions to ensure the best possible experience for Customer's implementation. In addition, VMware will update Site Profiles and Support Plans as needed. These reviews may be onsite and scheduled with the Customer by mutual agreement, per the terms and conditions outlined in the Mission Critical Support Program Handbook.

II. Description of Services Offerings for Zimbra Software Only:

VMware Contract # 101299

Feature	Advantage	Premium
Hours of Operation	12 Hours/Day 5 Days/Week 365 Days/Year	12 Hours/Day 5 Days/Week 365 Days/Year
Length of Service	1, 2 or 3 Years	1, 2 or 3 Years
Updates	✓	✓
Upgrades	✓	✓
Maintenance Releases	✓	✓
Minor Releases	✓	✓
Method of Access	Web/E-Mail	Telephone/Web/E-Mail
Response Method	Web/E-Mail	Telephone/Web/E-Mail
24 X 7 Crisis Support	✓ for urgent Severity 1 system down issues	✓ for urgent Severity 1 system down issues
Remote Support	No	✓
Access to Zimbra Support Portal	✓	✓
Access to Zimbra Product Portal, Discussion Forums, Wikis and Knowledge Base	✓	✓
Maximum Number of Support Administrators per Contract	2 primary contacts	10 primary contacts
Number of Support Requests	10 per year	Unlimited
Priority Queuing	No	No
Remote Support Account Management	No	No
Routing to Senior Level Resources	No	No
Proactive Onsite Support (Travel and Expense included)	No	No
Target Response Times:		
Critical (Priority 1)	4 business hours; 12 X 5	1 business hour; 24 X 7
Major (Priority 2)	8 business hours; 12 X 5	4 business hours; 12 X 5
Minor (Priority 3)	12 business hours; 12 X 5	8 business hours; 12 X 5
Cosmetic (Priority 4)	12 business hours; 12 X 5	12 business hours; 12 X 5

The Severity Levels for the Zimbra Software are as follows:

Severity Level	Definition
Severity 1 (Sev-1)	<p>Critical Service Outage</p> <ul style="list-style-type: none"> A production service is down and no workaround is immediately available. A critical production service – such as mail access, mail delivery, web server, Zimbra Appliance, or ZCB server - is down or not responding and cannot be stabilized or restarted. Customer's business operations have been severely disrupted. >50% of users on a platform or server are affected. May not be used in the case of a new installation, a test server or platform, or where no production users are on the system. Severity 1 support requires Customer to have dedicated resources available to work on the issue on an ongoing basis during Customer's contractual hours. In the case that the customer cannot continue to work on the issue with Zimbra, the case Severity Level may be reduced to a Sev-2. A service outage does not include the loss of connectivity or access for a single or relatively small subset of users, and a service outage should only be filed on cases thought to be problems with the server or service. Sev-1s cannot be filed on a case thought to be a problem in a messaging user agent or client such as Zimbra Desktop, Microsoft® Outlook®, Apple® iPhone®, etc.
Severity 2 (Sev-2)	<p>Major Functionality</p> <ul style="list-style-type: none"> Major functionality is severely impaired. Operations can continue in a restricted fashion, although long-term productivity might be adversely affected. A major milestone is at risk. Ongoing and incremental installations are affected. A temporary workaround is available.
Severity 3 (Sev-3)	<p>Minor Functionality</p> <ul style="list-style-type: none"> Minor functionality not working – workaround available. Partial, non-critical loss of functionality of the software. Impaired operations of some components, but allows the user to continue using the software. Initial installation milestones are at minimal risk.
Severity 4 (Sev-4)	<p>General Usage Questions</p> <ul style="list-style-type: none"> Cosmetic issues, including errors in the documentation. General configuration or use questions. Upgrade, major change, and migration notifications. Beta products. Trial customers. Enhancement requests. Cases initially opened via email will be assigned a Severity Level of Sev-4.

Zimbra Technical Support Business Hours	Monday - Friday
Zimbra US Toll Free - +1 888-228-7609 Zimbra US/International - +1 650-427-5709 (Option 2 for Support) Zimbra APAC - +91 20-3057-2700	6 a.m. – 6 p.m. (PST/PDT), excluding VMware holidays

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TERMS AND CONDITIONS

VMware Contract # 101299

VMware shall provide Technical Support and Subscription Services (as defined herein) (collectively, the "Services") in accordance with these Services Terms, for the specific Services level purchased by Customer. The Services Terms, including the Service level definition, on the Agreement Effective Date shall be as defined in this Exhibit A, however Customer acknowledges and agrees that VMware may update such Services Terms in VMware's own discretion, such updated Services Terms to be published on www.vmware.com/support; provided however that with regard to Software made publically available by VMware on the Effective Date of the Agreement VMware may not degrade the Services provided to Customer compared to the Services Terms effective on the Effective Date of the Agreement. For purposes of these Services Terms, the term "Order" shall include the registration form completed by Customer upon purchase of Technical Support on a per incident basis. In the event of any conflict between the Agreement and the Services Terms with regard to the Services, the Services Terms shall prevail.

1. Definitions.

1.1 "Error" means a failure in the Software to substantially conform to the description contained in the Documentation delivered together or made available in conjunction with the respective Software.

1.2 "Modified Code" means any modification, addition and/or development of code scripts (whether created by VMware, Customer or any third party) that deviates from the predefined product code tree(s)/modules developed by VMware for production deployment and/or use and specifically excludes customizable Software options made generally available by VMware and for which Services are available.

1.3 "Services Fees" means those fees that are applicable to the Services as specified in a corresponding VMware or reseller invoice.

1.4 "Services Period" means the period for which Customer has purchased the Services and any subsequent renewal periods and shall commence: (a) for Software Licenses for which Services are mandatory, on the date of shipment of the applicable Software License Key(s), and (b) for Software Licenses for which Services are optional, on the date of purchase of the Services.

1.5 "Severity" is a measure of the relative impact an Error has on the use of the Software, as determined in good faith by VMware in accordance with the Severity level definitions below. The following Severity levels are applicable to all Software excluding the Zimbra Software:

(a) **"Severity One"** means Customer's production server or other mission critical system(s) are down and no workaround is immediately available; (i) all or a substantial portion of Customer's mission critical data is at a significant risk of loss or corruption; (ii) Customer has had a substantial loss of service; or (iii) Customer's business operations have been severely disrupted. Severity One support requires Customer to have dedicated resources available to work on the issue on an ongoing basis during Customer's contractual hours.

(b) **"Severity Two"** occurs when major functionality is severely impaired: (i) operations can continue in a restricted fashion, although long-term productivity might be adversely affected; (ii) a major milestone is at risk; ongoing and incremental installations are affected; or (iii) a temporary workaround is available.

(c) **"Severity Three"** involves partial, non-critical loss of functionality of the software: (i) impaired operations of some components, but allows the user to continue using the software; or (ii) initial installation milestones are at minimal risk.

(d) **"Severity Four"** refers to general usage questions and cosmetic issues, including errors in the documentation.

The Severity levels for Services for the Zimbra Software are as set forth in Section II above entitled "Description of Services Offerings for Zimbra Software".

1.6 "Software" shall have the meaning set forth in the Agreement, however, for purposes of these Services Terms, the term "Software" does not include Modified Code, Third Party Products or customized deliverables that VMware creates specifically for Customer.

1.7 "Subscription Services" means the provision of Major Releases, Minor Releases and Maintenance Releases, if any, to the Software, as well as corresponding Documentation to Customer. With respect to the provision of Major Releases, Minor Releases and Maintenance Releases to Customer pursuant to the Subscription Services, Customer acknowledges that Customer's use of such Major Releases, Minor Releases and Maintenance Releases shall be subject to the terms of this Agreement and the Product Guide effective as of the date of such provision of such Major Releases, Minor Releases and Maintenance Releases which pertain to the License being granted and any associated restrictions.

(a) **"Maintenance Release"** or **"Update"** means a generally available release of the Software that typically provides maintenance corrections or fixes only, designated by VMware by means of a change in the

digit to the right of the second decimal point (e.g. Software 5.0 >> Software 5.0.1), or for certain Software, by means of a change in the digit of the Update number (e.g. Software 5.0 Update 1).

(b) **"Major Release"** also known generally as an **"Upgrade"** means a generally available release of the Software that contains functional enhancements or extensions, designated by VMware by means of a change in the digit to the left of the first decimal point (e.g. Software 5.0 >> Software 6.0).

(c) **"Minor Release"** means a generally available release of the Software that introduces a limited amount of new features and functionality, designated by VMware by means of a change in the digit to the right of the decimal point (e.g. Software 5.0 >> Software 5.1).

1.8 "Technical Support" means the provision of technical assistance by VMware to Customer's technical contact(s) with respect to installation, analysis of problem reports, and Errors, at the corresponding Services level purchased by Customer.

1.9 "Third Party Products" means any third party proprietary software or hardware that is manufactured by a party other than VMware, or its Affiliates and has not been incorporated into the Software or Services offerings of VMware or its Affiliates.

2. Service Terms.

2.1 "Provision of Services." During the Services Period VMware shall provide Technical Support and Subscription Services, provided that VMware shall use reasonable commercial efforts to remedy Errors as part of its Technical Support, hereby considering the Severity of the Error. Furthermore, VMware shall provide the Services at the Services level purchased during the Services Period subject to Section 2.2 below.

2.2 "End of Availability." VMware may, at its discretion, decide to retire a Software and/or Services at any time (**"End of Availability"**) upon notice. Notice of End of Availability, the last date of general commercial availability of the Software and applicable support lifecycle support policies and timelines for discontinuance, shall be provided via the VMware Support Services website at www.vmware.com/support, provided that VMware will at no time discontinue Support Services within less than 12 months from notice publication on its website. The previous sentence shall not apply to Socialcast On Premise and other SaaS based Software which shall be supported as described in the applicable ELA.

2.3 "Requirements." Customer may purchase initial Services only for the most current, generally available release of the Software. Limited exceptions may apply for specific Software as provided for at www.vmware.com/support

(a) For all current and additional Software Licenses purchased for a particular VMware Software product or suite, including those where Services are not required at the time of purchase of the applicable Software License (including, but not limited to, VMware Workstation, VMware Fusion or VMware vSphere Hypervisor), Customer must purchase and/or renew Services at the same Services level in a given functional discipline (e.g. Test, Development, QA, Production). For the avoidance of doubt, such obligations pertain only to the respective business unit which acts as a Customer, e.g. if a business unit of Customer's Industry Sector purchases Services for certain Software Licenses, only such business unit is required to purchase and/or renew such Services at the same Services level in a given functional discipline. Any other business units in the same Sector or any other Sector of Customer are not affected. Additionally for avoidance of doubt, business units can access only the Services associated (or corresponding) to licenses within their business unit.

(b) For most Software, a minimum of one (1) year of Services must be purchased. For Software-specific support requirements, refer to www.vmware.com/pdf/software_specific_support_requirements.pdf. Subject to Section 2.2, VMware may update these Services Terms during the Services Period as set forth in the Intro section of these terms and conditions. A decision to terminate Services or otherwise not renew Services will not terminate the applicable Software Licenses.

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(c) VMware, during the course of providing Technical Support, may be required to analyze whether or not a reported problem is related to Modified Code. Where VMware reasonably suspects that a problem may be related to Modified Code, VMware in its sole discretion, reserves the right to request that the Modified Code be removed. If VMware cannot directly identify the root cause of a problem because of Modified Code has not been removed by Customer or reasonably suspects that the problem is related to Modified Code, Customer shall be informed that additional assistance may be obtained by Customer directly from various product discussion forums or via engagement for an additional fee with VMware's consulting services group. If VMware created the Modified Code under a consulting services agreement, support in connection with the Modified Code may be provided by VMware's consulting services group under the terms of such consulting services agreement.

2.4 Eligibility. To the extent that problems are caused by the following situations such problems are not included in the Services but may be addressed separately upon request at VMware's then-current hourly rates for consulting, subject to then-current standard consulting services terms and conditions:

(a) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media not furnished by VMware; operation of the Software with other media not in accordance with the manufacturer's specifications; or causes other than ordinary use; or

(b) improper installation by Customer or use of the Software that deviates from any operating procedures as specified in the Documentation; or

(c) actual or attempted modification, alteration or addition to the Software undertaken by Customer or any third party; or

(d) Third Party Products, other than the interface of the Software with the Third Party Products; or

(e) Modified Code; or

(f) any customized deliverables created by VMware specifically for Customer as part of consulting services; for the avoidance of doubt, this exception shall not apply to installation and configuration; or

(g) any technical issue unrelated to an Error (refer to the Technical Support guide for examples).

With respect to vFabric Software, issues caused by the following are not included in the Services: (i) use of the Software with an unsupported Java Development Kit (JDK) or Java Runtime Environment (JRE) (see Documentation for specific versions of what is supported); or (ii) APIs, interfaces or data formats other than those included with the Software.

2.5 Open Source Software Support. VMware's general policy is that Customer is not entitled to receive Services for Open Source Software not provided with the Software package, unless VMware specifically makes available Services for such Open Source Software on its Services price list and as detailed at www.vmware.com/support. To the extent VMware provides Services for Open Source Software, these Services Terms shall apply, and VMware will provide Services for the Open Source Software, provided such Open Source Software has not been modified by Customer, its employees or agents.

2.6 Customer Responsibilities.

(a) Customer agrees to receive from VMware communications via e-mail, telephone, and other formats, regarding renewals, quotes, and other topics relating to Services (such as communications concerning an Error or other technical issues and the availability of new releases). Customer's technical contact(s) shall cooperate to enable VMware to deliver the Services.

(b) Customer is solely responsible for the use of the Software by its personnel and shall properly train its personnel in the use and application of the Software.

(c) Customer shall report to VMware all problems with the Software without undue delay. Customer shall implement any corrective procedures provided by VMware promptly after receipt.

(d) Customer shall ensure that data and information stored on the computers on which the Software is used is backed up before granting access to production systems to VMware or before implementing instructions or patches provided by VMware.

3. Services Fees.

3.1 Services Fee Schedule.

(a) Unless otherwise indicated on the Order, Services Fees are payable on the Effective Date or, in the case of VMware Contract # 0101290, date of commencement of the applicable Services Period, and due in accordance with Section 4 of the Agreement. Services Fees are non-refundable upon payment, except as otherwise expressly set forth under these Terms and Conditions or the Agreement, see Section 8.2 [Termination by Customer for breach]. Customer agrees that Orders do not have to be signed to be valid and enforceable.

(b) The Services Fees, including renewals, are as set forth in the table below. Upon expiration of the initial Services term VMware may increase applicable Services Fees for renewals, as agreed in the applicable Purchase Order. If Customer elects not to renew the Services or, in the case of Software that may initially be purchased without Services, if Customer elects not to purchase the Services when Customer acquires the Software License, Customer may later re-enroll or enroll, as the case may be, for the Services, subject to Subsection 3.1(d) below.

(c) For any renewal or addition of Services, which requires a minimum purchase of one (1) year, Customer may elect to make Services for all or a portion of its Software Licenses coterminous, in which case, VMware will prorate the applicable Services Fees for the current Services Period based on the number of full or partial months remaining in the current Services Period.

(d) If Customer purchases Services after acquiring the Software Licenses, or had elected not to renew Services and later wishes to re-enroll in the Services, Customer must move to the then-current Major Release of the Software and must pay: (i) the applicable Services Fees for the current Services Period; and (ii) the amount of Services Fees that would have been paid for the period of time that Customer had not enrolled in the Services, and (iii) a twenty-percent (20%) reinstatement fee on the sum of the Services Fees in (i) and (ii). For the avoidance of doubt, the payments required under (i) to (iii) shall only apply to the Software Licenses for which Customer wishes to re-enroll in the Services.

(e) In cases where Customer purchases a License to migrate up from one edition of the Software to another (e.g. VMware vSphere Standard to VMware vSphere Enterprise Plus), any unused period of the Services Period on the original License will be converted and used to extend the Services Period for the newly purchased upgraded License. This paragraph (e) shall not apply to enterprise license agreements.

3.2 Services Fees.

The following provisions of this Section 3.2 shall only apply to the extent the parties have not agreed on deviating conditions, in particular fixed and/or otherwise deviating pricing terms, in an applicable ELA.

(a) Annual Services Fees for initial Services, as well as renewals, if any, will be based on the following schedule, pursuant to Customer's elected level of Services for the Software, and subject to Section 3.2(b) below:

Services Level	Services Fee*
Basic Support and Subscription	21% of the then-current list price of the Software
Production Support and Subscription	25% of the then-current list price of the Software
For Zimbra Software only – Zimbra Advantage and Zimbra Premium**	Zimbra Advantage – 16% of the then-current list price of the Software Zimbra Premium – 20% of the then-current list price of the Software

*These Services Fees shall not apply to term-based Software Licenses. Such Services Fees are set forth in the table in Section 3.2(b) below.

**Zimbra Software includes, but is not limited to, the following: Zimbra Collaboration Suite and Zimbra Archiving & Discovery. The foregoing listing of Zimbra Software may be modified from time to time at VMware discretion. See subsection (j) below for additional details on Services offerings.

(b) The price of Services (for the initial Services Period as well as renewals thereof, if any) for the Software and Services levels listed below are not priced based on a percentage of list price of such Software; such prices are as reflected in the then-current VMware standard price list, and Service levels are defined in the Technical Support guide (as updated from time to time):

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Software	Services Level
VMware vCenter Converter Standalone	Per Incident Support
VMware vSphere Standard Edition	Basic and Production SnS
VMware vCenter Server Foundation for vSphere	Basic and Production SnS
VMware Workstation	Per Incident Support
VMware Fusion	Per Incident Support, or Desktop Standard Support
VMware vSphere Hypervisor	Basic and Production SnS (for one year only at point of sale) or Per Incident Support
VMware ThinApp Suite VMware ThinApp Client	Basic and Production SnS
VMware Capacity Planner	Production SnS for worldwide partners only (complimentary web based support available for trained partners only)
VMware vSphere Essentials Edition	Per Incident Support
vFabric Products	Developer (as detailed at www.vmware.com/support), Basic and Production SnS on Term Licenses

of purchase, and VMware will provide Customer with the VMware Complimentary Update Service for a period of ~~thirteen (13) months~~ ^{thirteen (13) months from the date of general availability of such Software}; and (ii) VMware will provide Customer with limited web-based support services for the VMware Fusion Software and the VMware Complimentary Update Service for a period of eighteen (18) months from the date of general availability of such Software. "VMware Complimentary Update Service" means the provision of Maintenance Releases and Minor Releases, if any, to Customer. This VMware Complimentary Update Service does not include the provision of any Major Releases. Limited complimentary installation assistance will also be made for these Software products as further detailed at <http://www.vmware.com/support/services/complimentary.html>.

(g) Customers may purchase Basic or Production Support only when a minimum of ten (10) Licenses of VMware Workstation are purchased simultaneously.

(h) The VMware Open Source Project Support Policy is located at www.vmware.com/support/policy.

(i) With respect to Services for the Zimbra Software, VMware shall offer only Zimbra Advantage and Zimbra Premium level Services. Such Zimbra Advantage and Premium level Services offerings are distinct and different from VMware's Basic and Production Support and Subscription Services offerings in several key areas, including, but not limited to, support response times, business hours and coverage, management of support contacts, support processes, escalation and resolution issues, urgency definitions, support exclusions, upgrades, maintenance and end of life policies.

(c) Business Critical Support ("BCS") is available for a fixed price (including renewals thereof), based on VMware's then-current list price, for an annual contract covering each supported BCS Customer Team. Additional technical contacts (including renewals thereof) beyond six (6) may be added to the BCS Customer Team for a fixed annual fee. A discount of twenty percent (20%) off the then-current list price for BCS shall apply to BCS (including to renewals thereof) if Customer has contracted for, and currently has, one (1) or more VMware Technical Account Manager. A "BCS Customer Team" means a Customer team that: (i) consists of no more than six (6) technical contacts, (ii) has at least one individual who has passed the relevant certification exams and has been certified by VMware as a VMware Certified Professional, (iii) is centrally responsible for managing and supporting Customer's virtual infrastructure, (iv) develops and implements standards and processes for the management of all virtual systems supported, and (v) provides front line support for the virtual systems supported, making use of available technical repositories and experience to resolve known issues.

(d) Mission Critical Support (MCS) is available for a fixed price (including renewals thereof), based on VMware's then-current list price for an annual contract and is offered as a supplement to Production Support. MCS provides global, 24 X 7 support for Severity One issues as well as priority access to senior level technical support engineers for an unlimited number of support contacts.

(e) Desktop Standard Support is available for certain Software and is priced at a flat rate per License, with a minimum of ten (10) Licenses. Desktop Standard Support includes Services delivered to a Desktop Standard Support Customer Team. A Desktop Standard Support Customer Team shall: (i) consist of no more than four (4) technical contacts and (ii) provide front line support for the desktop and virtual systems supported, making use of available technical repositories and experience to resolve known issues.

(f) Unless Customer has purchased Services for the Software: (i) VMware will provide Customer with limited web-based support services for the VMware Workstation Software for a period of thirty (30) days after the date

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EXHIBIT B

VMWARE BUSINESS CONDUCT GUIDELINES

The VMware Business Conduct Guidelines define the standards of behavior for VMware, Inc. These Guidelines apply to VMware, Inc. and its subsidiaries (collectively, "VMware"), as well as VMware's employees, officers and directors (each such person defined as a "VMware person" or collectively as "VMware people"). At VMware, we have a responsibility to act ethically and honorably in our:

- interactions with our fellow employees;
- alliances with partners in the markets where we conduct business;
- efforts to protect the company's assets and reputation for our shareholders; and
- undertakings within our communities.

ACT WITH INTEGRITY

VMware's expectations concerning the behavior of VMware people should be similar to the personal expectations we, as VMware people, set for ourselves.

We are expected to act with integrity, which means:

- be honest and ethical in all of our dealings;
- comply with all laws and seek help in cases of uncertainty;
- adhere to all VMware policies;
- be respectful of others;
- be accountable, responsible and meet commitments; and
- do what is right.

OBEY THE LAW AND VMWARE POLICY

VMware is committed to conducting its business in accordance with all applicable laws, rules and regulations, and we should conduct ourselves in the same manner. Compliance with the law is the minimum expectation. Personal integrity often will involve a standard higher than what exists under the law.

We are also expected to act in accordance with VMware's policies, which are available either electronically on VMware Source, through your manager or from the VMware Legal Department. For questions about these Guidelines or about a legal or compliance matter, please contact your manager, the VMware Human Resources Department and/or the VMware Legal Department.

In some instances, VMware policies may go beyond the requirements of the U.S. or the laws of foreign jurisdictions. Nevertheless, at VMware, we are expected to comply with VMware policies and these Guidelines. Any violation of these policies may result in severe discipline, up to and including termination as well as civil and criminal penalties.

I. DEMONSTRATE ETHICAL AND RESPECTFUL BEHAVIOR TOWARDS VMWARE AND OUR FELLOW COLLEAGUES

Our success at VMware is dependent upon the trusted relationships that we build with our customers, partners, suppliers and among our co-workers. This level of trust builds over time and after demonstrating integrity in making the right choices and decisions. Ultimately, we should treat others as we would hope to be treated ourselves. In the workplace, if we compromise our integrity, our behavior impacts not only our individual and team reputations, but also VMware's reputation.

A. AVOID CONFLICTS OF INTEREST

A VMware person's activities can, intentionally or unintentionally, create a conflict of interest or an appearance of impropriety. While working for VMware, we should dedicate our time and efforts to furthering VMware's goals. In general, we should avoid any activity or personal interest that creates, or appears to create, a conflict between our interests and the interests of VMware or that might impair, or appears to impair, our ability as a VMware person to perform our work objectively and effectively. Examples of potential conflicts of interest include, but are not limited to:

- An activity or business that in any way competes with VMware or might advance a competitor's interest.
- A financial interest in, or activity or business with, any supplier, competitor, customer, distributor, or other organization that could create a conflict of interest or compromise a duty owed to VMware.
- Inadvertent disclosures of confidential information to a friend or relative who is employed by a competitor or supplier of VMware.
- Personal benefits from VMware that have not been duly authorized and approved pursuant to VMware policy and procedure, including any loans or guarantees of personal obligations by VMware.
- Individual participation in any business or investment opportunity known by virtue of the employment relationship with VMware.
- Associating VMware with, or indicating VMware support for, any civic, religious, political or professional association without approval from VMware. Additionally, speaking on any public issues or making any kind of campaign contribution as a representative of VMware.
- Favoring a supplier or selecting a supplier for reasons other than price, quality, performance and suitability of the product or service.

Because the facts of any such situation may differ, please seek clarification from your manager, the VMware Human Resources Department and the VMware Legal Department before proceeding with any activity that might be construed as creating a conflict of interest. For example, a conflict might arise by joining an advisory board, standards board, or board of

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directors of another company. Also, the activities of immediate family members may also be construed as creating a conflict of interest. We must not condone, permit or request others to do what we cannot do ourselves.

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To seek guidance, advice or approval for any transaction or relationship which could reasonably be expected to give rise to a conflict of interest, please contact your manager, VMware Human Resources and the VMware Legal Department.

B. TREAT FELLOW VMWARE PEOPLE WITH DIGNITY AND RESPECT

VMware values the creativity, energy and strength that results from a truly diverse workplace. For this reason, it is vital that VMware people embrace each others' differences and treat one another with respect. VMware will not tolerate unlawful and/or inappropriate discrimination or harassment of any kind. Engaging in such conduct would deteriorate the collaborative nature of the VMware workplace, and it could expose you and VMware to liability.

C. BE HONEST AND TRUSTWORTHY WHEN DEALING WITH CUSTOMERS, PARTNERS AND VENDORS

Customer satisfaction is a paramount goal of VMware. To establish and maintain strong and long-lasting relationships, we must be honest and trustworthy in all of our dealings with customers, partners, vendors and other third parties. Long-term relationships are more valuable than short-term gains.

While involved in proposals, bids or contract negotiations with third parties, we must communicate honestly. Once a valid contract is entered into, both VMware and the customer or vendor must adhere to its terms. We should only enter into agreements on behalf of VMware which contain terms to which VMware can adhere. We should never take advantage of others through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair dealing practice.

II. CONDUCT BUSINESS FAIRLY, OPENLY AND TRANSPARENTLY

VMware expects the excellence of its people, products and services to speak for themselves. VMware does not condone, support or tolerate behavior that compromises its ability to thrive on a level playing field.

A. COMPLY WITH THE ANTITRUST AND COMPETITION LAWS

The objective of the antitrust and competition laws is to protect and promote competition and free enterprise. Antitrust and competition laws prohibit certain practices which unreasonably restrain trade. We must fully understand and comply with all applicable antitrust and competition laws and any VMware policies, guidelines or rules of engagement that address these laws.

B. OBTAIN AND HANDLE THE TRADE SECRETS AND CONFIDENTIAL INFORMATION OF OTHERS WITH CARE

VMware competes vigorously, but fairly. We may use any publicly available information about VMware's competitors or other companies, but we may not unlawfully acquire or misuse the trade secrets or other confidential information of a third party. VMware does not condone the use of any improper means, such as cash payments, favors, or hiring a competitor's employees, to acquire confidential information of third parties.

When receiving information about another company through legitimate means, we still must determine if the information is confidential and how such information may be used. For example, check written documents for labels that designate them as private or confidential. Before receiving known confidential information, establish the terms for its use which may require the execution of a "confidentiality agreement," restricting the use, disclosure, or distribution of the information. Having received confidential information through legitimate means, the use, copy, disclosure or distribution of it must only occur in accordance with the terms of any relevant "confidentiality agreement."

We must also abide by the lawful obligations we have to our former employer(s). These obligations may include restrictions on the use and disclosure of confidential information or solicitation of former colleagues to work at VMware, or non-competition agreements. For any questions regarding these obligations, please contact the VMware Legal Department.

C. OFFER, AUTHORIZE OR ACCEPT COURTESIES ONLY WHEN APPROPRIATE

While the exchanging of courtesies in the form of gifts, meals and invitations to entertainment events may promote goodwill and further the business relationship, misunderstandings may occur, especially when the exchange occurs during or close to the negotiation of a business deal. To minimize misunderstandings, it is imperative that nothing of value is offered, promised or given, directly or indirectly - through a third party - in order to obtain an improper advantage. Any overture meant to influence or obligate the recipient to perform an act for the benefit of VMware would be considered improper and should be avoided.

The acceptance of questionable gifts also exposes VMware to legal risks, so we must not solicit or accept anything of value which would create the appearance that we would be influenced or obligated to do business with the giver. If a customer or supplier offers or gives anything which would create such an appearance, we should reject the offer and promptly inform management.

While we may not use VMware funds to provide gifts to fellow VMware people, awards may be given under a VMware-sponsored recognition program, contest or promotion.

Giving or receiving courtesies should never damage VMware's reputation. Any gift-giving should be fully visible to management. It is critical that all expense report records accurately reflect gifts provided to customers, suppliers, partners or other third parties in order to comply with tax and other legal reporting requirements.

Government Personnel: Hospitality involving government personnel is particularly restrictive. It is against VMware policy to provide or pay for, either directly or indirectly, any meal, travel, entertainment, lodging or gift intended for a government employee or foreign government official without express approval from the VMware Legal Department. Except in very limited circumstances, the giving of any gratuity or anything of value, directly or indirectly to or for the benefit of a government employee, foreign government official, foreign political party, candidate for foreign political office, or official or employee of public international organizations, or to any third party with knowledge that the payment will be paid over, given, offered or promised to such persons or entities could subject both you and VMware to civil and criminal penalties. For the avoidance of doubt, VMware persons are prohibited from doing indirectly that which they are prohibited from doing directly.

Even nominal gifts provided pursuant to local custom to a person acting in an official capacity for a foreign government designed to influence that individual's acts or decisions is improper and could subject you and VMware to substantial criminal liability for violation of the U.S. Foreign Corrupt Practices Act of 1977, as amended, and other local anti-bribery statutes.

D. BE MINDFUL OF EXPORT AND ANTI-BOYCOTT LAWS

As a company with operations throughout the world, VMware must ensure its technology is used in conformance with the laws which govern its shipment or transfer. The United States and other countries restrict the export of goods, software and technology such as some types of telecommunications equipment, computers, electronics, sensing devices and encryption technology which could have military or other applications and pose a danger to the interests of the country restricting the export. Additionally, the U.S. government restricts exports of nearly all goods and technology to certain countries. Even presenting data to a foreign party in the United States may constitute an export. Because VMware software is subject to U.S. export control laws, regardless of whether it is being shipped or re-shipped from an overseas location, please seek guidance from the VMware Legal Department before conducting a transfer of VMware technology.

VMware also complies with U.S. anti-boycott laws. These laws protect U.S. companies and their subsidiaries from cooperating with non-sanctioned international boycotts. Therefore, VMware will not participate in boycotts of countries, their nationals or blacklisted companies, unless these boycotts are sanctioned by the U.S. government and participation by VMware is approved by the appropriate level of management. Please consult with the VMware Legal Department if you have questions in this area. VMware Contract # 101299

III. ACT WITH INTEGRITY BY PRESERVING AND PROTECTING VMWARE'S PROPERTY AND REPUTATION.

At VMware, we have a commitment to our shareholders to protect the company's assets and reputation. Our guidelines and processes have been created to ensure our statements and declarations to our shareholders are accurate and credible. Strict adherence to these policies and procedures is expected by VMware. By preserving our reputation, VMware may continue delivering superior results to its shareholders.

A. PROTECT VMWARE'S CONFIDENTIAL AND PROPRIETARY INFORMATION

A key component to VMware's success is its ability to surpass its competition with innovative concepts. To stay on this path to success, VMware people must safeguard information considered to be confidential or proprietary, both during and after employment with VMware. Disclosure of this information is prohibited and is a violation of these Guidelines and VMware's Key Employment Agreement and result in serious damage to VMware.

All VMware confidential or proprietary information, including any related document in any tangible or electronic form, in our possession or control, no matter where it is located, is the property of VMware. Both during our employment with VMware and thereafter, we are prohibited from using such information, including such documents, for our own benefit or disclosing them to anyone outside of VMware. All such information must be returned to VMware upon termination of employment with VMware. Any taking, downloading or other prohibited use or disclosure of such VMware information is unacceptable and may be deemed to be a misappropriation of VMware trade secrets and/or proprietary information.

Additionally, steps must be taken to prevent inadvertent disclosure of VMware confidential or proprietary information, including but not limited to discussing any non-public or confidential information of VMware with outsiders, as well as family and friends, and in any public place, such as an elevator, restaurant or airplane. Even within VMware, such information should be shared with others only on a "need to know" basis. Express authorization should be obtained before posting any proprietary or confidential VMware information on forums such as internet chat boards. While away from VMware's premises, please take special care to protect VMware's information, in both hard copy and electronic form, to prevent inadvertent disclosure in public places.

In our business, we are likely to meet, talk to, or attend functions with individuals who work for VMware's competitors, partners, suppliers or customers. Even where the interaction seems innocent, be cautious about what is said, being careful to not discuss anything relating to confidential information. Inform management or the VMware Legal Department of any attempts by outsiders to obtain VMware confidential information.

There are designated contacts to respond to requests for information, proprietary or otherwise, from outside VMware. Below is a list of contacts for particular types of requests:

Requests from securities analysts or investors	Investor Relations 650-427-3267
Requests from reporters and news media	Public Relations 650-427-2485
Requests for information from governmental authorities or outside attorneys, other requests of a legal nature or request of any kind of audit	Legal Department 650-427-1474
Requests for personnel references or employment verifications, salary verifications or other requests about current or former VMware people	Human Resources 650-427-1015

B. COMPLY WITH INSIDER TRADING RESTRICTIONS

We must not buy or sell VMware securities if we are aware of "inside" information, that is, material non-public information about VMware. Similarly, if we become aware of inside information about other companies, such as VMware partners, suppliers and customers, through our work at VMware, we must not buy or sell the securities of that company nor should we pass along any inside information to others, such as friends or relatives. In addition, VMware people may not engage in any form of short-selling, hedging, puts or calls or options trading in VMware stock.

C. ACTING ON BEHALF OF THE COMPANY

We must ensure that we neither act nor appear to act on behalf of VMware beyond the scope of our roles. Only specifically designated individuals shall have the authority to bind VMware to contract terms, commit VMware resources, or speak on behalf of VMware. To secure accountability, we must only permit those VMware people that are designated by their job title and function to sign corporate documents and speak on behalf of the company.

D. PROTECT VMWARE'S PROPERTY AND EQUIPMENT

To protect VMware, we should take all reasonable steps to protect against loss, theft, or misuse of any VMware asset. Moreover, VMware's facilities, property and equipment are provided to conduct VMware business or for purposes authorized by management. We should not perform any personal or non-VMware work in VMware facilities, on VMware time, or using VMware training, tools, materials or resources.

E. USE OF VMWARE INFORMATION TECHNOLOGY SYSTEMS

VMware's IT systems, including the e-mail system, are the property of VMware. We must use all of these systems appropriately and for work-related matters.

F. MAINTAIN AND PROVIDE ACCURATE AND HONEST BUSINESS RECORDS AND FINANCIAL REPORTS

VMware's books and records must reflect all transactions included in its results of operations and financial position truthfully, accurately, and in compliance with generally accepted accounting principles. VMware also has strict reporting obligations under certain statutes, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and securities laws. It is therefore essential that we report all business transactions honestly, accurately and in compliance with all VMware policies and procedures. For example, all VMware people must provide truthful and accurate reports of expenses and time. Additionally, all VMware people in sales must provide truthful, accurate and complete paperwork relating to sales transactions. Falsification of business documentation, whether or not it results in personal gain, is never permissible and may result in penalties to VMware and to the VMware person.

G. ENSURE FULL, FAIR, ACCURATE, TIMELY AND UNDERSTANDABLE DISCLOSURE AND FINANCIAL REPORTING

As a public company, VMware is required to file periodic and other reports and documents with the United States Securities and Exchange Commission ("SEC") and to make other public communications. VMware must provide accurate, complete and timely disclosure in those SEC reports and documents and in its other public communications, including disclosure of VMware's financial results and financial condition. Accordingly, we must fully meet our responsibilities to ensure that VMware's financial reports and records are in strict compliance with all applicable laws, generally accepted accounting principles and VMware policies. We must provide information that is accurate, complete, objective, relevant, timely and understandable, act in good faith, responsibly, with due care, competence and diligence, without misrepresenting or omitting material facts or allowing your independent judgment to be subordinated, and impose and maintain appropriate controls over all assets and resources employed. These responsibilities apply to each of us, but are especially important if you are a member of VMware's Finance Department or are otherwise involved with VMware's financial reporting.

H. SUPPORT THE AUDIT PROCESS

Audits are instrumental to the ability of a company to identify and correct concerns. We must fully support the audit process and not take any action to fraudulently influence any public accountant or auditor performing an audit or review of VMware's financial statements or business records.

I. COMPLY WITH APPLICABLE LAWS AND GUIDELINES REGARDING RECORD RETENTION

Drafts and other documents not required to be retained under a specific VMware policy or procedure or otherwise by applicable law should be destroyed regularly in the ordinary course of business. However, if we become aware of a subpoena, litigation, investigation, or other threat of litigation (for instance, arbitration, an administrative filing, an internal complaint to a VMware agent, or a demand or complaint letter by a party, an attorney, or a government agency) that relates to VMware and you have documents that may be relevant, we must retain and preserve those documents, including e-mails and other documents that may otherwise be automatically deleted or destroyed, until advised by the VMware Legal Department otherwise. Prompt notification should be provided to the VMware Legal Department of any such notice that relates to VMware.

J. COMPLY WITH DATA PRIVACY OBLIGATIONS

Processing data relating to VMware's staff, customers, partners and suppliers responsibly and legally is an important factor in VMware's success. We must all comply with any applicable data privacy laws and VMware's data privacy policies which address these laws.

CONCLUSION

VMware takes seriously its legal and ethical obligations. As VMware people, we should always conduct ourselves with integrity and in compliance with laws and VMware policies, including these Guidelines. Failing to do so may put VMware at risk and could subject you to disciplinary action, up to and including termination of employment. By doing what is right, we help VMware move forward with continued success.

Questions and Guidance

For questions about responsibilities under these Guidelines or for specific guidance about a particular situation, please promptly speak to your manager or the VMware Legal Department. VMware Contract #: 101299

Violations

If you know of or suspect a violation of applicable laws or regulations, these Guidelines, or any VMware policy, it is your responsibility to promptly report such violation in any of the following ways:

- Employees are encouraged to talk to supervisors, managers or other appropriate personnel when in doubt about the best course of action in a particular situation. Additionally, employees are encouraged to report violations of laws, rules, regulations or these Guidelines to your employee representative/delegate, line manager, or local human resource representative.
- Because the manner in which reports of violations may be made varies from country to country, any employee having information, knowledge or suspicion of any actual or contemplated transaction which is or appears to be in violation of these Guidelines may, as an alternative to the standard reporting method above, contact the VMware Ethics Helpline at 1-877-310-0382 or visit www.vmwareethicshelpline.ethicspoint.com to report via the web page or for international dialing instructions. This hotline is monitored by a third party that can provide guidance on which matters, to whom and how such matters may be reported. Depending on the type of report, the country the report is made from and the country about which the report is made, the report may be redirected back to local management.
- If the report relates to accounting, internal accounting control over financial reporting, or auditing matters, governmental anti-bribery, banking or financial crime, VMware people may also directly contact the VMware Legal Department by telephone (650-427-1474), by facsimile (650-427-4474) or by e-mail (GeneralCounsel@vmware.com).
- Contact the Audit Committee of the VMware Board of Directors by e-mail (AuditCommitteeChair@vmware.com).

Any reported violation will be kept confidential to the maximum extent consistent with applicable laws and business needs. You may report violations or suspected violations anonymously or by identifying yourself. Please keep in mind, however, that in some circumstances, it may be more difficult or even impossible for VMware to thoroughly investigate anonymous reports. VMware therefore encourages employees to share their identity when reporting. Although reports of violations or suspected violations under these Guidelines may be made verbally, VMware people are encouraged to make any such reports in writing, which assists the investigation process.

The data collected and processed (which may include personal information related to the employee or the accuser's name, position, etc.) will be treated confidentially and proportionate in relation to the specific purpose for which they are collected or further processed. Processed personal data shall be retained no longer than required or permitted by applicable law. All information will be dealt with in accordance with the requirements of all local data protection legislation.

Anti-Retaliation

VMware will not retaliate against any person who provides information or otherwise assists in an investigation or proceeding regarding any conduct which the VMware person reasonably believes constitutes a violation of applicable laws or regulations, these Guidelines, or any VMware policy.

Further, employees of VMware are not permitted to retaliate against any person who reports a violation of these Guidelines or of applicable laws, rules or regulations in good faith. Conversely, VMware people may not submit bad faith reports, that is, a report the person knows to be false. Any abuse, such as raising a malicious allegation, or one the person knows to be unfounded, will be dealt with as a disciplinary matter and/or an unlawful action, consistent with applicable law.

Waivers and Amendments

VMware reserves the right, in its discretion, to waive application of the policies set forth in these Guidelines when appropriate and to amend, modify or change these Guidelines. Any waiver of these Guidelines for VMware directors or executive officers may be made only by the VMware Board of Directors or a committee thereof. Any waiver of or change to these Guidelines for VMware directors, executive officers, or controller, or persons performing similar functions shall, in each case, be disclosed as required by law or regulation.

Approved on January 21, 2011.

EXHIBIT C

VMware Contract # 101299

**AFFILIATE PARTICIPATION AGREEMENT
TO MASTER SOFTWARE LICENSES AND SERVICES AGREEMENT**

This Affiliate Participation Agreement ("PA") to the Master Software Licenses and Services Agreement, is entered into as of _____ (hereinafter "PA Effective Date") by and between VMware International Limited, an Irish corporation, having its place of business at Parnell House, Barrack Square, Ballincollig, Co. Cork, Ireland ("VIL") and VMware, Inc., located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("VMware, Inc.") and [INSERT AFFILIATE NAME]- an [INSERT AFFILIATE JURISDICTION] corporation, located at [INSERT ADDRESS] ("Affiliate"). VIL and VMware, Inc. hereinafter respectively as the case may be referred to as "VMware".

WHEREAS Siemens AG, a German corporation, with its principle office located at Wittelsbacherplatz 2, 80333 Munich, Germany ("Customer"), and VMware have entered into a Master Software Licenses and Services Agreement, dated [INSERT DATE] ("Master Software Licenses and Services Agreement" or "MSLA").

WHEREAS Affiliate desires to purchase Software and Services (each as defined in the MSLA) under the terms of the MSLA from Customer's Preferred Reseller (as defined in the MSLA).

NOW, THEREFORE, in consideration of the premises and obligations contained herein, it is agreed as follows:

1. Affiliate and VMware agree to enter into this PA on the same terms as the Master Software Licenses and Services Agreement. The Master Software Licenses and Services Agreement is hereby incorporated by reference as if fully set forth herein.
2. Unless defined otherwise herein, capitalised terms used in this PA shall have the same meaning as set forth in the Master Software Licenses and Services Agreement. VMware and Affiliate are collectively identified herein as the "Parties."
3. Any clause in the Master Software Licenses and Services Agreement referring to the Master Software Licenses and Services Agreement is deemed to refer to this PA for purposes of transactions between the Parties.
4. This PA shall be effective on the PA Effective Date and shall remain valid until the earlier of: (i) the Master Software Licenses and Services Agreement is terminated or expired; or (ii) this PA is terminated by either Party in accordance with the termination rules set forth in Section 8. of the Master Software Licenses and Services Agreement.
5. In case of conflict between this PA and the Master Software Licenses and Services Agreement, the terms and conditions set forth in this PA shall supersede and control transactions between the Parties. For the avoidance of doubt, this PA does not alter the terms of the Master Software Licenses and Services Agreement. This PA is a separate and distinct agreement by and between Affiliate and VMware.

IN WITNESS WHEREOF, the Parties have caused this PA to be signed on the respective dates indicated below.

Affiliate

By: _____

Print Name: _____

Title: _____

Date: _____

VMware International Limited

VMware, Inc.

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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EXHIBIT D

VMware Contract # 101299

Customer's Preferred Resellers

1. **Comparex:** all duly VMware authorized Comparex group companies, provided the respective Comparex group company the order is placed at has the necessary level of authorization as required under VMware's Partner program for the respective transaction.
2. **Insight:** all duly VMware authorized Insight group companies, provided the respective Insight group company the order is placed at has the necessary level of authorization as required under VMware's Partner program for the respective transaction

Exhibit 2



VMware Agreement # 00557143

ELA ORDER FORM

This Enterprise License Agreement ("ELA") is between the customer identified below ("Customer" or "You") and VMware International Unlimited Company, located at Parnell House, Barrack Square, Ballincollig, County Cork, Ireland ("VIC"). VMware, Inc., located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("VMware, Inc.") is also a party to this ELA. "VMware" means (a) as to Software Deployed and Services provided in the United States, VMware, Inc., and (b) as to Software Deployed and Services provided outside of the United States, VIC. Notwithstanding the foregoing, the parties agree that the following sections of this ELA shall not apply to VMware, Inc.: Fees, Invoicing and Payment Terms, and Customer Signature Return Date.

Customer Name: Siemens AG	Customer Address: Otto Hahn Ring 6, Munich, BAYERN 81739, GERMANY
Entitlement Account (EA)#: [REDACTED]	Customer purchases this ELA directly from VMware
Effective Date: (if blank, then the Effective Date is the last indicated date of execution)	Customer Signature Return Due Date 30. September 2021
ELA Period Commencement Date: Effective Date	ELA Period Expiration Date: 3 Years from Effective Date
Territory: GLOBAL	HPP Period Expiration Date: 3 years from Effective Date
Currency: EUR	
This ELA also includes Customer's Affiliates as defined and set forth below.	

IN WITNESS WHEREOF, Customer and VMware have caused this ELA Order Form and any other documentation or agreements incorporated herein by reference, to be signed by their duly authorized representatives.

SIEMENS AG

Signature:

Name:

Title:

Date:

SIEMENS AG

Signature:

Name:

Title:

Date:

VMware, Inc.

Signature:

Name:

Title: Senior Contracts Administrator

Date: Sep 29, 2021

VMware International Unlimited Company

Signature:

Name:

Title: Legal Operations Project Manager

Date: Sep 29, 2021

ORDER INFORMATION

Customer is ordering the VMware offerings listed on the ELA Schedule on Exhibit A (the “Offerings”). The Offerings may include VMware software, various services, and purchasing tokens or credits. Customer’s use of the Offerings is limited to the Territory listed on this ELA

1. Software and Support Services Terms. Customer’s use of the Software is subject to the Master Software License and Services Agreement (VMware Agreement No. 101299) as amended by Amendment No.1 (VMware Agreement No. 00583876), hereinafter jointly referred to as “MSLA”. Customer’s use of the Support Services is subject to the support services terms as per the MSLA.

a) Deployment Rights. Customer may deploy the Software listed in the ELA Schedule. A license to the Software shall be deemed “deployed” if the Software has been installed and Customer has entered a license key, if necessary, to run the Software. Except for any Software licensed on a subscription basis, Customer shall have perpetual licenses to use the Software that it has deployed, subject to the terms of this ELA. For subscription Software, Customer may only use the subscription Software for ELA Period, unless Customer continues to pay the applicable renewal fees.

b) Software Delivery. VMware shall deliver the Software to Customer by, at VMware’s discretion, either: (a) making the Software available for download and emailing the corresponding license key(s); (b) making the Software available for download in a fashion that does not require a license key; or (c) shipping the Software on physical media and emailing the corresponding license key(s). All Software shall be deemed delivered and accepted upon VMware (i) making the Software available for download without the requirement of a license key or (ii) emailing the corresponding license key(s) to Customer. If the Software will be delivered on physical media, shipping and delivery terms are Ex Works VMware’s regional fulfillment facility (INCOTERMS 2020).

c) Reporting. Within thirty (30) days following expiration of the ELA Period, Customer shall report to VMware the total number of Software licenses Customer deployed as of the ELA Period Expiration Date. Customer shall also provide VMware with any other information reasonably requested by VMware to confirm Customer’s compliance with the terms of this ELA. Such report shall be provided via e-mail to <mailto:LicenseAdvisory@vmware.com>, or as otherwise specified by VMware in writing. If Customer fails to meet the reporting requirements in this Section, VMware shall set an additional period of time of at least 10 days. If this additional period has elapsed and Customer still does not meet the reporting requirements, VMware itself, or a reputable, internationally recognized, independent third party auditor appointed by VMware, who is bound to strict confidentiality under the rules of their profession or by contract and bound to the applicable data protection requirements may audit Customer’s compliance with the terms of this ELA. In case the audit reveals that Customer has violated its contractual obligations, Customer shall bear the costs of the audit, otherwise VMware shall bear the costs.

2. Training and Consulting Credits. Customer’s use of the training and consulting credits is subject to the terms agreed under the Master Service Agreement, Agreement No. 00583877 (“MSA”). Customer may allow its Affiliates and Carved Out Units (both as defined in the MSA) to use the training and consulting credits, provided that the services redeemed with such training and consulting credits shall be subject to the VMware Professional Services General Terms and Conditions available at <https://www.vmware.com/content/dam/digitalmarketing/vmware/en/pdf/professional-services/vmware-general-terms-and-conditions-professional-services.pdf>, unless such Affiliates or Carved Out Units have entered into a respective Participation Agreement as set forth in the MSA. For the avoidance of doubt, the use of training and consulting credits by Customer and its Affiliates and Carved Out Units may not exceed the total amount of training and consulting credits purchased in this ELA.

3. Hybrid Purchasing Program.

3.1 HPP Fund A

Customer is purchasing Hybrid Purchasing Program (“HPP”) Credits represented as the fund balance (“HPP Fund A Balance”) listed on the ELA Schedule as HPP Fund A. Customer may redeem the HPP Fund A Balance by accessing My VMware located at <https://my.vmware.com/web/vmware/login>. The entire HPP Fund Balance will be deemed delivered and accepted when VMware makes the HPP Fund A Balance available to Customer in My VMware. Any portion of the HPP Fund A Balance that is not redeemed before the termination of the ELA Period will expire, and Customer will not be entitled to a refund for any unused HPP Fund A Balance. For the avoidance of doubt, the Customer can redeem the HPP Fund A Balance during the ELA Period including the last day of the ELA Period, which has been defined as 3 years from the Effective Date. For the avoidance of doubt, the HPP Fund A shall be co-terminated to the ELA expiration date of this ELA. Any Eligible HPP Product (as that term is used in the HPP Guide) that Customer redeems from the HPP Fund A Balance will be referred to as “Redeemed Software” for the purposes of this ELA and may only be used in the Territory as defined in the MSLA. The allocation of the HPP Fund A Balance to Eligible HPP Products and Eligible HPP Services is as set forth on the ELA Schedule. Customer shall not change the initial allocation percentages. For the purposes of this ELA, such allocation shall be 100% Perpetual. Customer’s use of the HPP Fund A Balance is subject to the HPP Guide posted at <http://www.vmware.com/files/pdf/solutions/vmware-hpp-program-guide.pdf>, unless otherwise stated in this ELA. Customer’s use of the Redeemed Software is subject to the terms of the MSLA and this ELA. Customer’s use of the Support Services is subject to the terms of the MSLA and the ELA.

3.2 HPP Fund B

Customer is purchasing Hybrid Purchasing Program ("HPP") Credits represented as the fund balance ("HPP Fund B Balance") listed on the ELA Schedule as HPP Fund B. Customer may redeem the HPP Fund B Balance by accessing My VMware located at <https://my.vmware.com/web/vmware/login>. The entire HPP Fund B Balance will be deemed delivered and accepted when VMware makes the HPP Fund B Balance available to Customer in My VMware. Any portion of the HPP Fund B Balance that is not redeemed before the termination of the ELA Period will expire, and Customer will not be entitled to a refund for any unused HPP Fund B Balance. For the avoidance of doubt, the Customer can redeem the HPP Fund B Balance during the ELA Period including the last day of the ELA Period, which has been defined as 3 years from the Effective Date. For the avoidance of doubt, the HPP Fund B shall be co-termed to the ELA expiration date of this ELA. Any Eligible HPP Product (as that term is used in the HPP Guide) that Customer redeems from the HPP Fund B Balance will be referred to as "Redeemed Software Fund B" for the purposes of this ELA and may only be used in the Territory as defined in the MSLA. The allocation of the HPP Fund B Balance to Eligible HPP Products and Eligible HPP Services is as set forth on the ELA Schedule. Customer shall not change the initial allocation percentages. For the purposes of this ELA, such allocation shall be 100% Perpetual. Customer's use of the HPP Fund B Balance is subject to the HPP Guide posted at <http://www.vmware.com/files/pdf/solutions/vmware-hpp-program-guide.pdf>, unless otherwise stated in this ELA. Customer's use of the Redeemed Software Fund B is subject to the terms of the MSLA and this ELA. Customer's use of the Support Services is subject to the terms of the MSLA and the ELA. Customer may only use the Redeemed Software Fund B, for testing, evaluating and developing within a non-production environment only. Any Support Service for Redeemed Software Fund B may not be renewed beyond the term of this ELA.

3.3 HPP Fund C

Customer is purchasing Hybrid Purchasing Program ("HPP") Credits represented as the fund balance ("HPP Fund C Balance") listed on the ELA Schedule as HPP Fund C. Customer may redeem the HPP Fund C Balance by accessing My VMware located at <https://my.vmware.com/web/vmware/login>. The entire HPP Fund C Balance will be deemed delivered and accepted when VMware makes the HPP Fund C Balance available to Customer in My VMware. Any portion of the HPP Fund C Balance that is not redeemed before the termination of the ELA Period will expire, and Customer will not be entitled to a refund for any unused HPP Fund C Balance. For the avoidance of doubt, the Customer can redeem the HPP Fund C Balance during the ELA Period including the last day of the ELA Period, which has been defined as 3 years from the Effective Date. For the avoidance of doubt, the HPP Fund C shall be co-termed to the ELA expiration date of this ELA. Any Eligible HPP Product (as that term is used in the HPP Guide) that Customer redeems from the HPP Fund C Balance will be referred to as "Redeemed Software" for the purposes of this ELA and may only be used in the Territory as defined in the MSLA. The allocation of the HPP Fund C Balance to Eligible HPP Products and Eligible HPP Services is as set forth on the ELA Schedule. Customer shall not change the initial allocation percentages. For the purposes of this ELA, such allocation shall be 100% Perpetual. Customer's use of the HPP Fund C Balance is subject to the HPP Guide posted at <http://www.vmware.com/files/pdf/solutions/vmware-hpp-program-guide.pdf>, unless otherwise stated in this ELA. Customer's use of the Redeemed Software is subject to the terms of the MSLA and this ELA. Customer's use of the Support Services is subject to the terms of the MSLA and the ELA.

4.1 HPP FUND A True-up. For the purposes of this ELA, any Software purchased pursuant to a true-up of the HPP Fund A Balance will also be referred to as "Redeemed Software". For any true-up HPP Fund Balance redeemed through My VMware during the ELA Period, on or by the applicable "VMware Reporting Date" in the table below VMware will generate a report of redeemed true-up HPP Fund Balance for each three-month period below (each a "Reporting Period"), with the first report covering the period beginning on the Effective Date through the last day of the applicable Reporting Period. If a VMware Reporting Date falls on a weekend or holiday, the VMware Reporting Date shall be the next business day.

Reporting Period	VMware Reporting Date	PO Due Date
February 1 through April 30	May 10th	May 15th
May 1 through July 31	August 10th	August 15th
August 1 through October 31	November 10th	November 15th
November 1 through January 31	February 10th	February 15th

4.2 HPP FUND C True-up. For the purposes of this ELA, any Software purchased pursuant to a true-up of the HPP Fund C Balance will also be referred to as "Redeemed Software". For any true-up HPP Fund Balance redeemed through My VMware during the ELA Period, on or by the applicable "VMware Reporting Date" in the table below VMware will generate a report of redeemed true-up HPP Fund Balance for each three-month period below (each a "Reporting Period"), with the first report covering the period beginning on the Effective Date through the last day of the applicable Reporting Period. If a VMware Reporting Date falls on a weekend or holiday, the VMware Reporting Date shall be the next business day.

Reporting Period	VMware Reporting Date	PO Due Date
February 1 through April 30	May 10th	May 15th
May 1 through July 31	August 10th	August 15th
August 1 through October 31	November 10th	November 15th
November 1 through January 31	February 10th	February 15th

5.1 HPP FUND A True-up Payments. Customer will issue a purchase order directly to VMware, for the total amount of true-up HPP Fund A Balance for Redeemed Software and any corresponding Support Services for Redeemed Software during the applicable Reporting Period. The license fees to be paid directly to VMware for such true-up HPP credits for Redeemed Software shall be at a discount of [REDACTED] off the then-current list price, and the fees for Production level Support Services for such Redeemed Software, for the initial term shall be calculated at [REDACTED] of the net license fee paid to VMware. Notwithstanding anything to the contrary herein, the foregoing pricing is in lieu of, and may not be combined with, any other discounts that Customer received from VMware, either contractually or through any other special promotions. For each Reporting Period, Customer must issue a purchase order directly to VMware by the applicable "PO Due Date" in the table above; provided, however, that if any such date falls on a weekend or holiday, Customer shall issue the purchase order on the next business day. The Support Services fee included in each Redeemed Software purchase order will be prorated, commencing on the date on which the HPP Fund Balance is redeemed for the corresponding Redeemed Software license, as indicated on the report provided to Customer, until the expiration of the ELA Period.

5.2 HPP FUND C True-up Payments. Customer will issue a purchase order directly to VMware, for the total amount of true-up HPP Fund C Balance for Redeemed Software and any corresponding Support Services for Redeemed Software during the applicable Reporting Period. The license fees to be paid directly to VMware for such true-up HPP credits for Redeemed Software shall be at a discount of [REDACTED] off the then-current list price, and the fees for Production level Support Services for such Redeemed Software, for the initial term shall be calculated at [REDACTED] of the net license fee paid to VMware. Notwithstanding anything to the contrary herein, the foregoing pricing is in lieu of, and may not be combined with, any other discounts that Customer received from VMware, either contractually or through any other special promotions. For each Reporting Period, Customer must issue a purchase order directly to VMware by the applicable "PO Due Date" in the table above; provided, however, that if any such date falls on a weekend or holiday, Customer shall issue the purchase order on the next business day. The Support Services fee included in each Redeemed Software purchase order will be prorated, commencing on the date on which the HPP Fund Balance is redeemed for the corresponding Redeemed Software license, as indicated on the report provided to Customer, until the expiration of the ELA Period.

6. Invoicing and Payment Terms. As set forth in the MSLA, except that in deviation of the MSLA, Customer agrees to pay any invoices issued by VMware under this ELA within 90 days of the date of the invoice.

7. Customer Reference. As set forth in the MSLA.

8. Order of Precedence. As set forth in the MSLA

9. Assignment. As set forth in the MSLA

10. Customer Signature Return Date. Customer must sign, date and return this ELA to VMware on or before VMware's close of business on the Customer Signature Return Date. If Customer does not sign, date and return this ELA on or before close of business on such date, VMware shall have the option to cancel this ELA and the terms of this ELA shall be null and void.

11. Counterparts. This ELA may be executed in any number of counterparts by either handwritten or electronic signature, each of which counterparts may be delivered by emailing the other party to the ELA a signed scanned document or electronically signed portable document format (pdf) version of the contract (as applicable). Each party agrees to the execution of this ELA in this manner, and the parties acknowledge that execution in this manner creates a binding contract between the parties at the time of delivery of the last party's counterpart.

12. Customer Purchasing Program. Customer shall be designated as a Tier T3 in VMware's Customer Purchasing Program. This designation shall commence on the Effective Date of this ELA and will continue until the ELA Period Expiration Date. This designation will be subject to the terms and conditions of the Customer Purchasing Program as stated in the Customer Purchasing Program Guide located at <https://www.vmware.com/content/dam/digitalmarketing/vmware/en/files/pdf/cpp/vmw-cpp-program-guide.pdf>. The Customer Purchasing Program provides discounts to VMware's participating distributors only, and no representations whatsoever are made as to any discounts Customer may receive. Customer's participation in the Customer Purchasing Program is subject to all the requirements and qualifications of the Customer Purchasing Program. Notwithstanding anything to the contrary in the Customer Purchasing Program: (i) discounts shall not apply to term-based licenses of VMware products

(e.g. subscription licenses); and (ii) the foregoing discounts are in lieu of, and may not be combined with, any other discounts received from VMware, either contractually or through any other promotions.

13. Affiliates. As set forth in the MSLA.

14. Divestiture Rights. For Software obtained by Customer (i.e. Siemens AG) under this ELA and for the Pre-ELA Installed Software as set forth under section I.D.3 of the ELA Schedule attached as Annex A and except for Software purchased in an unlimited amount, notwithstanding any other term in this ELA, in the event that Customer divests a portion of its business or an entity which was an Affiliate (as defined in this ELA) and for whose benefit Customer was using the Software or which Affiliate was using the Software, respectively, at the time of that divestiture ("Divested Entity"), Customer may continue to use the Software for the benefit of that Divested Entity or may allow Divested Entity to continue to use the Software, respectively, pursuant to the terms of this ELA and the following additional terms:

1. Customer is receiving Services pursuant to the terms of this ELA as of the date of the divestiture;
2. That use is subject to and conditioned upon Customer to report to VMware no later than the last business day before the divestiture:
 - a. the legal entity name of the Divested Entity after the divestiture;
 - b. ownership, voting or similar interest of the new parent company (if any) of Divested Entity after the divestiture;
 - c. the total number of Software licenses deployed by Customer for the benefit of Divested Entity and by Divested Entity itself as of the date of divestiture. That report shall be provided via e-mail to LicenseCompliance@vmware.com, or as otherwise specified by VMware in writing.
3. That use must be to process only that business and data which had previously been processed for the benefit of that Divested Entity by Customer or by that Divested Entity, respectively, in the ordinary course immediately prior to that divestiture, or which shall develop through organic growth during the course of the Divestiture Period as a result of that Divested Entity's ordinary business activities. No business of the new parent or any of its subsidiaries or affiliates may be processed using the Software without the prior written permission of VMware, and without payment of an additional fee;
4. That use shall be at no additional charge for the Divestiture Period (as defined below). Any use beyond that period shall be at fees to be mutually agreed to by the parties;
5. All Services shall be provided to the Divested Entity through Customer. VMware shall have no obligation to respond directly to any calls or requests made by the Divested Entity;
6. Under no circumstances shall Customer continue to process the business or data of the Divested Entity for any period of time longer than twelve (12) months following that divestiture ("Divestiture Period") without the prior written permission of VMware.
7. Customer shall provide VMware a confirmation once Customer has ceased the use of Software for the benefit of Divested Entity and Divested Entity has ceased use of the Software. That confirmation shall be provided via e-mail to LicenseCompliance@vmware.com, or as otherwise specified by VMware in writing.

Except as otherwise expressly set forth in the ELA, latest at the end of the Divestiture Period, subject to following VMware's License Assignment and Transfer (LATF) process as set forth at <http://www.vmware.com/support/policies/licensingpolicies.html>, hereby completing and submitting to VMware the VMware LATF form, Customer may transfer to Divested Entity the Software licenses used by or for the Divested Entity. Subject to and conditioned upon fulfillment of the requirements set forth in the remainder of this Divestiture section no additional consent of VMware shall be required under the LATF process for those transfers. In connection with the Services paid by Customer in connection with the ELA, the Services for the licenses deployed by the Divested Entity as of the Divestiture Date shall transfer with the licenses transferred to the Divested Entity. Unless explicitly agreed otherwise with VMware, upon transfer the Divested Entity's use of the Software and related Services is subject to VMware's standard terms and conditions available at www.vmware.com/download/eula, except that the Territory and Affiliate usage rights set forth in the ELA will continue to apply, provided that only those entities that meet the definition of Affiliate of the Divested Entity prior and after the Divestiture will constitute Affiliates.

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15. **ELA Renewal.** Customer shall have the right to enter into a new ELA Agreement with VMware at the time of expiration of this ELA. Any terms and conditions including commercial terms of such new ELA shall be agreed upon by the parties at the time of signing the new ELA. For the avoidance of doubt, Customer may enter into a new ELA agreement prior to the expiration of this ELA.
16. **Use of VMware Programs.** In case that VMware will introduce new programs that address the conversion of perpetual licenses into SaaS/Cloud offerings, Siemens can avail of these programs if available and subject to the terms of such programs.
17. **Order.** Customer shall pay invoices issued by VMware under this ELA within ninety (90) days of the date of the invoice. Customer understands that VMware typically requires a purchase order to serve as a binding promise of payment and to ensure the correct billing address, shipping address, and tax status. However, VMware will issue an invoice to Customer for the fees specified under this ELA, upon delivery of the License Keys or Services to Customer. In lieu of Customer issuing a purchase order to VMware for the Software and Services fees under this ELA, Customer acknowledges that this ELA, upon signature by Customer, represents a binding obligation on the part of Customer to pay all undisputed invoices under the ELA. Customer represents that an employee of Customer who has the authority to commit Customer funds has executed this ELA. Should Customer decide to issue a PO, it will be for informational purposes only. VMware shall send invoices and ship License Key(s) to Customer at the following address:

Billing Address:

ARE 7092

Customer Name: Siemens AG

Contact:

Address: Postfach 10 02 40

City/State/Zip Code: Bamberg, DE-96054, Deutschland

E-mail:

Accounts Payable Manager

AP Manager Name:

AP Manager email or phone:

The software license key(s) shall be shipped to:

Customer Name: Siemens AG

Contact:

Address: Freyeslebenstr. 1

City/State/Zip Code: Erlangen, , 91058

E-mail:

All charges and fees provided for in this ELA shall be remitted in EUR and are exclusive of any taxes, duties, or similar charges imposed by any government or other authority as specified in the MSLA under section 4.3 Taxes.

EXHIBIT A**ELA Schedule****I. OFFERINGS****A. ON-PREMISE SOFTWARE (Perpetual Licenses)**

Customer is purchasing the following VMware software ("Software") as it exists as of the Effective Date.

DESCRIPTION OF SOFTWARE	MAXIMUM AUTHORIZED DEPLOYMENT
VMware NSX-T Enterprise Plus per Processor	██████████
VMware vSphere 7 Essentials Plus Kit for 3 hosts (Max 2 processors per host)	██████████
VMware NSX Advanced Load Balancer per Processor	██████████
VMware vRealize Automation 8 Standard Plus (25 OSI Pack)	██████████████████
VMware vSphere 7 Bitfusion for 1 processor	██████████
VMware vSphere 7 Essentials Kit for 3 hosts (Max 2 processors per host)	██████████

B. ON-PREMISE SOFTWARE (Subscription Licenses)

Customer is purchasing the following VMware software (which shall also be considered "Software" for all purposes under this ELA) as it exists as of the Effective Date, on a subscription basis.

DESCRIPTION OF SOFTWARE	NUMBER OF SUBSCRIPTIONS	SUBSCRIPTION DURATION
VMware Tanzu Basic - Per CPU - 1-Year Term	██████████	ELA Term
VMware Carbon Black App Control -1 Year Subscription (12 months prepaid) Per Endpoint. For Windows server With Production Support	██████████	ELA Term

C. PURCHASING PROGRAMS.

C.1 HPP FUND A BALANCE. Customer is purchasing HPP credits delivered as the HPP Fund A Balance represented below:

HPP FUND A BALANCE (MSRP)	INITIAL ALLOCATION PERCENTAGE
██████████ EUR	██████████ Eligible HPP Products

Customer may redeem the HPP Fund A Balance only for those Eligible HPP Products listed on the attached Eligible Products Exhibit. If Customer obtains licenses to Redeemed Software in excess of the HPP Fund A Balance above, Customer will pay for additional HPP Fund A Balance on a true-up basis at the terms laid out under section 6.1.

C.2 HPP FUND B BALANCE. Customer is purchasing HPP credits delivered as the HPP Fund B Balance represented below:

HPP FUND B BALANCE (MSRP)	INITIAL ALLOCATION PERCENTAGE
████████ EUR	████████ Eligible HPP Products

Customer may redeem the HPP Fund B Balance only for those Eligible HPP Products listed on the attached Eligible Products Exhibit. For the avoidance of doubt, Customer may only use the Redeemed Software redeemed under HPP Fund B, for testing, evaluating and developing within a non-production environment only.

C.3 HPP FUND C BALANCE. Customer is purchasing HPP credits delivered as the HPP Fund C Balance represented below:

HPP FUND B BALANCE (MSRP)	INITIAL ALLOCATION PERCENTAGE
██ EUR	████████ Eligible HPP Products

Customer may redeem HPP Tokens for Software on VMware's price list made eligible for HPP Token redemption in the HPP Portal as of and after the Effective Date. If Customer obtains licenses to Redeemed Software in excess of the HPP Fund C Balance above, Customer will pay for additional HPP Fund C Balance on a true-up basis at the terms laid out under section 6.2

D. SUPPORT AND SUBSCRIPTION SERVICES ("Support Services")

Customer is purchasing the following Support Services to be provided during the ELA Period:

- D.1 On-Premise Software (perpetual licenses):** During the ELA Period, VMware shall provide Customer with Production Level Support Services for the Software licensed on a perpetual basis.
- D.2 On-Premise Software (subscription licenses):** During the ELA Period, VMware shall provide Customer with Production Level Support Services for the subscription Software.
- D.3 Pre-ELA Installed Software:** During the ELA Period, VMware shall provide Customer with Production Level Support Services for the following list of software previously licensed by Customer (Pre-ELA Installed Software), which are coterminous with the ELA Period. The Pre-ELA Installed Software is not subject to any license fees in this ELA. If the Pre-ELA Installed Software includes any licenses granted to Customer's affiliated entities, the purchase of Support Services for such Pre-ELA Installed Software under this ELA does not automatically transfer such software licenses to Customer.

SKU	Description of Pre-ELA Installed Software	Total	Notes
CF4-SDDCM-VS	VMware SDDC Manager for vSAN (Per CPU)	██	-
FUS-PRO	VMware Fusion Pro, ESD	████	-
HZ7-ENC-10	VMware Horizon Enterprise: 10 Pack (CCU)	██	-
HZ7-STD-10	VMware Horizon Standard: 10 Pack (CCU)	██	-

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HZ8-ENC-10	VMware Horizon Enterprise: 10 Pack (CCU)	■	-
NX-DC-ADV	VMware NSX Data Center Advanced per Processor	■	-
NX-DC-EPL	VMware NSX Data Center Enterprise Plus per Processor	■	-
NX-DC-STD	VMware NSX Data Center Standard per Processor	■	-
NX-ENT	VMware NSX Enterprise per Processor	■	-
ST7-ADV	VMware vSAN Advanced for 1 processor	■	-
ST7-ADV-DT	VMware vSAN Advanced per Concurrent User	■	-
ST7-ENT	VMware vSAN Enterprise for 1 processor	■	-
ST7-STD	VMware vSAN Standard for 1 processor	■	-
VC-CMSO-25	VMware vCenter Configuration Manager for Suites (25 OSI)	■	-
VCD10-NVC	VMware vCloud Director for non-VCPP customers Per Processor	■	-
VCD10-NVC-25VM	VMware vCloud Director for non-VCPP customers (25 VM Pack)	■	-
VCS7-STD	VMware vCenter Server Standard for vSphere (Per Instance)	■	-
VR19-ADV	VMware vRealize Suite Advanced (Per PLU)	■	-
VR19-ENT	VMware vRealize Suite Enterprise (Per PLU)	■	-
VR19-STD	VMware vRealize Suite Standard (Per PLU)	■	-
VR7-VU100	VMware vRealize Operations for Horizon: 100 Concurrent User Pack	■	-
VR8-OSTC	VMware vRealize Operations Standard (Per CPU)	■	-
VR8-VU	VMware vRealize Operations Manager for Horizon per Concurrent User	■	-
VRNI6-ADV-CPU	VMware vRealize Network Insight Advanced (per CPU)	■	-
VRNI6-ENTAD-NXEPLP	VMware vRealize Network Insight Enterprise Add-on to VMware NSX Data Center Enterprise Plus (Per Processor)	■	-
VS6-ESP-KIT	VMware vSphere Essentials Plus Kit for 3 hosts (Max 2 processors per host)	■	-
VS6-ESSL	VMware vSphere Essentials Kit for 3 hosts (Max 2 processors per host)	■	-
VS7-EPL	VMware vSphere Enterprise Plus for 1 processor	■	-
VS7-EPL-VS	VMware vSphere Enterprise Plus for vCloud Suites (Per CPU)	■	-
VS7-ESP-KIT	VMware vSphere Essentials Plus Kit for 3 hosts (Max 2 processors per host)	■	-

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VS7-STD	VMware vSphere Standard for 1 processor	■	-
WS-PLAY	VMware Workstation Player	■	-
WS-PRO	VMware Workstation Pro	■	-

D.4 Success 360: Customer is purchasing the following as set forth under the MSLA, VMware Agreement No. 00583876. The below Success 360 Offering covers all VMware software that Customer and its Affiliates are licensing from VMware for their own internal use (regardless of whether purchased under this ELA or an ELA or standalone in the past), i.e. excluding any software licensed to Customer or the Affiliates for external use e.g. eOEM, MSP, etc. For the avoidance of doubt, the Success 360 Offering shall also cover VMware software of entities that become Affiliates of Customer during the ELA period provided such software is licensed to them for their own internal use. Licenses redeemed via HPP True-UP under HPP Fund A and HPP Fund C are covered under the Success 360 Offering without incurring additional charges.

VMware Success 360 Support	Quantity	Usage Period
CXS-SUCCESS360-GC -ELA	■	3 year(s) following the effective date
CXS-SUCCESS360-ONPREM	■	3 year(s) following the effective date
CXS-ASSM-ELA-3SUP	■	3 year(s) following the effective date

E. TECHNICAL AND CONSULTING SERVICES. Customer is purchasing the following technical and consulting services:

E.1 Training & Consulting Credits. Customer is purchasing the following training and consulting credits. Training and consulting credits must be used within the ELA Period.

DESCRIPTION	QUANTITY
Consulting & Learning Credits - Prepaid Services PSO Credit 1201+	■
Consulting & Learning Credits - Prepaid Services PSO Credit 1201+	■

II. FEES

A. ELA FEE. Customer shall pay the following fees for Offerings listed in Section I of this ELA Schedule:

ELA Fee: ■ EUR

B. RENEWAL FEES

At any time prior to the expiration of the ELA Period, Customer may renew the Covered Offerings listed below from VMware for one (1) additional year beginning on the expiration of the ELA Period for an annual fee of no less than ■ EUR but not to exceed ■ EUR (Renewal Fees). If Customer does not renew the Covered Offerings prior to the expiration of the ELA Period, Customer may purchase such offerings thereafter at the fees set forth on VMware's then-current price list.

Covered Offerings: Covers one-year renewal of Support Services for the Pre-ELA Installed Software and the Support Services for HPP Redeemed Software via HPP Fund Balance A. Renewal fees for Redeemed Services, Support Services for Software redeemed via an HPP True Up, Support Services for Software redeemed via HPP Fund Balance B, Success 360, and Premier Support are not included.

Attachment B

Hybrid Purchasing Program Burndown ELA (HPP-ELA) - COMMERCIAL Products SKU Eligibility (Effective September 06, 2021)

PRODUCT_FAMILY	PART_DESCRIPTION	SKU	EUR
THINAPP	VMware ThinApp 5 Client Licenses 100 Pack	THIN5-100PK-C	■
THINAPP	VMware ThinApp 5 Suite	THIN5-STE-C	■
VC-AGENT	VMware VirtualCenter Agent 1 for VMware Server 2-CPU; additive licenses	VMS-VCA-2U-C	■
VC-AGENT	VMware VirtualCenter Agent 1 for VMware Server 4-CPU; additive licenses	VMS-VCA-4U-C	■
VPX	VMware VirtualCenter Server 1 for VMware Server	VMS-VCMS-C	■
UEM	VMware Dynamic Environment Manager: 10 Pack (CCU)	UEM-CCU-10-C	■
UEM	VMware Dynamic Environment Manager: 100 Pack (CCU)	UEM-CCU-100-C	■
UEM	VMware Dynamic Environment Manager: 10 Pack (Named Users)	UEM-NU-10-C	■
UEM	VMware Dynamic Environment Manager: 100 Pack (Named Users)	UEM-NU-100-C	■
STORAGE	VMware HCI Kit 6 Advanced (Per CPU)	HCI-ADV-CPU-C	■
AIRWATCH	VMware Workspace ONE Advanced (Includes AirWatch) Add on for Horizon Enterprise Edition, Horizon Apps Advanced Edition, and Horizon Cloud Service, Perpetual: 1 User	VA-WOA-ADA-PLL-U-C	■
AIRWATCH	VMware Workspace ONE Advanced (Includes AirWatch) Perpetual: 1 Device	VA-WOA-PLL-A-D-C	■
AIRWATCH	VMware Workspace ONE Advanced (Includes AirWatch) Perpetual: 1 User	VA-WOA-PLL-A-U-C	■
AIRWATCH	VMware Workspace ONE Standard (Includes AirWatch) Perpetual: 1 Device	VA-WOS-PLL-A-D-C	■
AIRWATCH	VMware Workspace ONE Standard (Includes AirWatch) Perpetual: 1 User	VA-WOS-PLL-A-U-C	■

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AIRWATCH	Upgrade: VMware Workspace ONE Advanced (Includes AirWatch) Device Based License to Workspace ONE Advanced (Includes AirWatch), Perpetual, Per User	VA-WAD-WA-PLA-U-UG-C	████
AIRWATCH	Upgrade: VMware Workspace ONE Standard (Includes AirWatch) to Workspace ONE Advanced (Includes AirWatch) Perpetual: 1 User	VA-WSA-PLLA-U-UG-C	████
AIRWATCH	Upgrade: VMware Workspace ONE Standard (Includes AirWatch) Device Based License to Workspace ONE Advanced (Includes AirWatch), Perpetual, Per User	VA-WSD-WA-PLA-U-UG-C	████
AIRWATCH	Upgrade: VMware Workspace ONE Standard (Includes AirWatch) Device Based License to Workspace ONE Standard (Includes AirWatch), Perpetual, Per User	VA-WSD-WS-PLA-U-UG-C	████
AIRWATCH	Upgrade: VMware Workspace ONE Standard (Includes AirWatch) to Workspace ONE Advanced (Includes AirWatch) - Perpetual: 1 Device	VA-WSA-PLLA-D-UG-C	████
AIRWATCH	Upgrade: from VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 Device to VMware Workspace ONE Advanced (Includes AirWatch) Perpetual: 1 Device	VA-WAOA-PLL-A-D-UG-C	████
AIRWATCH	Upgrade: from VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 User to VMware Workspace ONE Advanced (Includes AirWatch) Perpetual: 1 User	VA-WAOA-PLL-A-U-UG-C	████
AIRWATCH	Upgrade: from VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 Device to VMware Workspace ONE Advanced (Includes AirWatch) Perpetual: 1 User	VA-WAOA-PLLD-A-U-UG-C	████
AIRWATCH	Upgrade: from VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 Device to VMware Workspace ONE Standard (Includes AirWatch) Perpetual: 1 Device	VA-WAOS-PLL-A-D-UG-C	████

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AIRWATCH	Upgrade: from VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 Device to VMware Workspace ONE Standard (Includes AirWatch) Perpetual: 1 User	VA-WAOS-PLL-A-DU-UG-C	■
AIRWATCH	Upgrade: from VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 User to VMware Workspace ONE Standard (Includes AirWatch) Perpetual: 1 User	VA-WAOS-PLL-A-U-UG-C	■
AIRWATCH	VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 Device	VA-WOAA-PLL-A-D-C	■
AIRWATCH	VMware Workspace ONE Application Access (Includes AirWatch) Perpetual: 1 User	VA-WOAA-PLL-A-U-C	■
STORAGE	VMware HCI Kit 6 with Operations Management (per CPU)	HCI-OM-KIT-C	■
VI6-VCENTER	VMware Site Recovery Manager 8 Standard (25 VM Pack)	VC-SRM8-25S-C	■
VI6-VCENTER	VMware Site Recovery Manager 8 Enterprise (25 VM Pack)	VC-SRM8-25E-C	■
VI6-VCENTER	Upgrade: VMware Site Recovery Manager 8 Standard to Site Recovery Manager Enterprise (25 VM Pack)	VC-SRM8-25SE-UG-C	■
NSX	VMware NSX Data Center Standard per Processor	NX-DC-STD-C	■
NSX	VMware NSX Data Center Professional per Processor	NX-DC-PF-C	■
NSX	VMware NSX Data Center Advanced per Processor	NX-DC-ADV-C	■
NSX	Upgrade: VMware NSX Data Center Standard to NSX Data Center Professional per Processor	NX-DC-STDPF-UG-C	■
NSX	Upgrade: VMware NSX Data Center Standard to NSX Data Center Advanced per Processor	NX-DC-STADV-UG-C	■
NSX	Upgrade: VMware NSX Data Center Professional to NSX Data Center Advanced per Processor	NX-DC-PFADV-UG-C	■
NSX	VMware NSX Data Center Advanced for Desktop: 10 Pack (CCU)	NX-DC-ADVC-10-C	■

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NSX	VMware NSX Data Center Advanced for Desktop: 100 Pack (CCU)	NX-DC-ADVC-100-C	■
NSX	VMware NSX Data Center for Remote Office Branch Office (25 VM)	NX-DCRB-25VM-C	■
NSX	Upgrade: VMware NSX Enterprise for Desktop to NSX Data Center Enterprise Plus for Desktop: 10 pack (CCU)	NX-DC-ENEPLC-10-UG-C	■
NSX	Upgrade: VMware NSX Enterprise for Desktop to NSX Data Center Enterprise Plus for Desktop: 100 pack (CCU)	NX-DC-ENEPLC-100-UG-C	■
NSX	Upgrade: VMware NSX Data Center Advanced for Desktop to NSX Data Center Enterprise Plus for Desktop: 100 pack (CCU)	NX-DC-ADEPLC-100-UG-C	■
NSX	Upgrade: VMware NSX Data Center Advanced for Desktop to NSX Data Center Enterprise Plus for Desktop: 10 pack (CCU)	NX-DC-ADEPLC-10-UG-C	■
NSX	Upgrade: VMware NSX Data Center Advanced to NSX Data Center Enterprise Plus per Processor	NX-DC-ADEPL-UG-C	■
NSX	Upgrade: VMware NSX Enterprise per Processor to NSX Data Center Enterprise Plus per Processor	NX-DC-ENEPL-UG-C	■
NSX	VMware NSX Data Center Enterprise Plus per Processor	NX-DC-EPL-C	■
NSX	VMware NSX Data Center Enterprise Plus for Desktop: 100 Pack (CCU)	NX-DC-EPLC-100-C	■
NSX	VMware NSX Data Center Enterprise Plus for Desktop: 10 Pack (CCU)	NX-DC-EPLC-10-C	■
NSX	Upgrade: VMware NSX Data Center Professional to NSX Data Center Enterprise Plus per Processor	NX-DC-PFEPL-UG-C	■
NSX	Upgrade: VMware NSX Data Center Standard to NSX Data Center Enterprise Plus per Processor	NX-DC-STEPL-UG-C	■
VCLOUD	VMware vCloud Director for SP for Telco NFV 9.0 Customers Per Processor	VC-CD9-TNFV-C	■
VREALIZE	VMware vRealize Operations for Horizon: 10 Concurrent User Pack	VR7-VU10-C	■

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VREALIZE	VMware vRealize Operations for Horizon: 100 Concurrent User Pack	VR7-VU100-C	■
STORAGE	VMware HCI Kit 6 Enterprise (per CPU)	HCI-EN-CPU-C	■
STORAGE	VMware HCI Kit 6 for Remote Office Branch Office Advanced (25 VM pack)	HCI-RBADV-25VM-C	■
STORAGE	VMware HCI Kit 6 for Remote Office Branch Office Standard (25 VM pack)	HCI-RBSTD-25VM-C	■
HGX	VMware HGX Enterprise per Processor	HGX-AD-NXEPL-C	■
NSX	VMware NSX Advanced Load Balancer per Service Core	NX-ALB-SC-C	■
SERVICE ASSURANCE SUITE	VMware Smart Assurance Device Class 2 Add-on - 100 Device Pack	ESO-SA-C2AD-100D-C	■
SERVICE ASSURANCE SUITE	VMware Smart Assurance Network Configuration Add-on - 100 Device Pack	ESO-SA-NCAD-100D-C	■
STORAGE	VMware HCI Kit 6 Standard (Per CPU)	HCI-STD-CPU-C	■
VCLLOUD	VMware vCloud Suite 2019 Advanced	CL19-ADV-C	■
VCLLOUD	VMware vCloud Suite 2019 Enterprise	CL19-ENT-C	■
VCLLOUD	Upgrade: VMware vSphere 6 with Operations Management Enterprise to vCloud Suite 2019 Advanced	CL19-OENT-ADV-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 6 with Operations Management Enterprise to vCloud Suite 2019 Enterprise	CL19-OENT-ENT-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 6 with Operations Management Enterprise to vCloud Suite 2019 Standard	CL19-OENT-STD-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 6 with Operations Management Enterprise Plus (Per CPU) to VMware vCloud Suite 2019 Advanced	CL19-OEPL-ADV-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 6 with Operations Management Enterprise Plus (Per CPU) to VMware vCloud Suite 2019 Enterprise	CL19-OEPL-ENT-UG-C	■

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VCLLOUD	Upgrade: VMware vSphere 6 with Operations Management Enterprise Plus (Per CPU) to VMware vCloud Suite 2019 Standard	CL19-OEPL-STD-UG-C	■
VCLLOUD	VMware vCloud Suite 2019 Standard	CL19-STD-C	■
VREALIZE	VMware vRealize Log Insight 8 per CPU	VR-LIS8-CPU-C	■
VREALIZE	VMware vRealize Log Insight 8 (25 OSI Pack)	VR-LIS8O-25-C	■
VREALIZE	VMware vRealize Suite 2019 Advanced (Per PLU)	VR19-ADV-C	■
VREALIZE	Upgrade: VMware vRealize Suite 2019 Advanced (Per PLU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-ADV-ENT-UG-C	■
VREALIZE	VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-ENT-C	■
VREALIZE	Upgrade: VMware vRealize Log Insight 8 (Per CPU) to VMware vRealize Suite 2019 Advanced (Per PLU)	VR19-LI8C-ADV-UG-C	■
VREALIZE	Upgrade: VMware vRealize Log Insight 8 (Per CPU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-LI8C-ENT-UG-C	■
VREALIZE	Upgrade: VMware vRealize Log Insight 8 (Per CPU) to VMware vRealize Suite 2019 Standard (Per PLU)	VR19-LI8C-STD-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Advanced (Per CPU) to VMware vRealize Suite 2019 Advanced (Per PLU)	VR19-OADC-ADV-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Advanced (Per CPU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-OADC-ENT-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Advanced (Per CPU) to VMware vRealize Suite 2019 Standard (Per PLU)	VR19-OADC-STD-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (Per CPU) to VMware vRealize Suite 2019 Advanced (Per PLU)	VR19-OSTC-ADV-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (Per CPU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-OSTC-ENT-UG-C	■

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VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (Per CPU) to VMware vRealize Suite 2019 Standard (Per PLU)	VR19-OSTC-STD-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard - vSOM Entitlement (Per CPU) to VMware vRealize Suite 2019 Advanced (Per PLU)	VR19-OSTVC-ADV-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard - vSOM Entitlement (Per CPU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-OSTVC-ENT-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard - vSOM Entitlement (Per CPU) to VMware vRealize Suite 2019 Standard (Per PLU)	VR19-OSTVC-STD-UG-C	■
VREALIZE	Upgrade: VMware vRealize Suite 2019 Standard (Per PLU) to VMware vRealize Suite 2019 Advanced (Per PLU)	VR19-STD-ADV-UG-C	■
VREALIZE	VMware vRealize Suite 2019 Standard (Per PLU)	VR19-STD-C	■
VREALIZE	Upgrade: VMware vRealize Suite 2019 Standard (Per PLU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-STD-ENT-UG-C	■
VREALIZE	Upgrade: VMware vRealize Automation 8 Advanced to VMware vRealize Automation 8 Enterprise (25 OSI Pack)	VR8-ATAD-ATEN-25-UG-C	■
VREALIZE	VMware vRealize Automation 8 Advanced (25 OSI Pack)	VR8-ATAD25-C	■
VREALIZE	VMware vRealize Automation 8 Enterprise (25 OSI Pack)	VR8-ATEN25-C	■
VREALIZE	VMware vRealize Operations 8 Advanced (Per CPU)	VR8-OADC-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Advanced (Per CPU) to VMware vRealize Operations 8 Enterprise (Per CPU)	VR8-OADC-OENC-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Advanced (25 OSI Pack) to vRealize Operations 8 Enterprise (25 OSI Pack)	VR8-OADO-OENO-25-UG-C	■
VREALIZE	VMware vRealize Operations 8 Advanced (25 OSI Pack)	VR8-OADO25-C	■

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VREALIZE	VMware vRealize Operations 8 Application Monitoring Add-On (Per PLU)	VR8-OAMAD-C	■
VREALIZE	VMware vRealize Operations 8 Enterprise (Per CPU)	VR8-OENC-C	■
VREALIZE	VMware vRealize Operations 8 Enterprise (25 OSI Pack)	VR8-OENO25-C	■
VREALIZE	VMware vRealize Operations 8 Standard (Per CPU)	VR8-OSTC-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (Per CPU) to VMware vRealize Operations 8 Advanced (Per CPU)	VR8-OSTC-OADC-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (Per CPU) to VMware vRealize Operations 8 Enterprise (Per CPU)	VR8-OSTC-OENC-UG-C	■
VREALIZE	VMware vRealize Operations 8 Standard - vSOM Entitlement (Per CPU)	VR8-OSTC-VS-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard - vSOM Entitlement (Per CPU) to VMware vRealize Operations 8 Advanced (Per CPU)	VR8-OSTCVS-OADC-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (25 VM Pack) to vRealize Operations 8 Advanced (25 OSI Pack)	VR8-OSTV-OADO-25-UG-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Standard (25 VM Pack) to vRealize Operations 8 Enterprise (25 OSI Pack)	VR8-OSTV-OENO-25-UG-C	■
VREALIZE	VMware vRealize Operations 8 Standard (25 VM Pack)	VR8-OSTV25-C	■
VREALIZE	VMware vRealize Operations for Horizon: 10 Concurrent User Pack	VR8-VU10-C	■
VREALIZE	VMware vRealize Operations for Horizon: 100 Concurrent User Pack	VR8-VU100-C	■
VREALIZE	Upgrade: VMware vRealize Operations 8 Enterprise (Per CPU) to VMware vRealize Suite 2019 Enterprise (Per PLU)	VR19-OENC-ENTP-UG-C	■
APPVOLUMES	VMware App Volumes Advanced 4.0 10 Pack (CCU)	AVA-ADVC-10-C	■

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APPVOLUMES	VMware App Volumes Advanced 4.0 100 Pack (CCU)	AVA-ADVC-100-C	■
APPVOLUMES	VMware App Volumes Advanced 4.0 10 Pack (Named Users)	AVA-ADVN-10-C	■
APPVOLUMES	VMware App Volumes Advanced 4.0 100 Pack (Named Users)	AVA-ADVN-100-C	■
APPVOLUMES	Upgrade: VMware App Volumes Standard 4.0 to App Volumes Advanced 4.0: 10 Pack (CCU)	AVA-STD-ADVC10-UG-C	■
APPVOLUMES	Upgrade: VMware App Volumes Standard 4.0 to App Volumes Advanced 4.0: 100 Pack (CCU)	AVA-STD-ADVC100-UG-C	■
APPVOLUMES	Upgrade: VMware App Volumes Standard 4.0 to App Volumes Advanced 4.0: 10 Pack (Named Users)	AVA-STD-ADVN10-UG-C	■
APPVOLUMES	Upgrade: VMware App Volumes Standard 4.0 to App Volumes Advanced 4.0: 100 Pack (Named Users)	AVA-STD-ADVN100-UG-C	■
APPVOLUMES	VMware App Volumes Standard 4.0 10 Pack (CCU)	AVA-STDC-10-C	■
APPVOLUMES	VMware App Volumes Standard 4.0 100 Pack (CCU)	AVA-STDC-100-C	■
APPVOLUMES	VMware App Volumes Standard 4.0 10 Pack (Named Users)	AVA-STDN-10-C	■
APPVOLUMES	VMware App Volumes Standard 4.0 100 Pack (Named Users)	AVA-STDN-100-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Enterprise to vCloud Suite 2019 Advanced	CL19-ENT7-ADV-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Enterprise to vCloud Suite 2019 Enterprise	CL19-ENT7-ENT-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Enterprise to vCloud Suite 2019 Standard	CL19-ENT7-STD-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Enterprise Plus to vCloud Suite 2019 Advanced	CL19-EPL7-ADV-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Enterprise Plus to vCloud Suite 2019 Enterprise	CL19-EPL7-ENT-UG-C	■

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VCLLOUD	Upgrade: VMware vSphere 7 Enterprise Plus to vCloud Suite 2019 Standard	CL19-EPL7-STD-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Standard to vCloud Suite 2019 Advanced	CL19-STD7-ADV-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Standard to vCloud Suite 2019 Enterprise	CL19-STD7-ENT-UG-C	■
VCLLOUD	Upgrade: VMware vSphere 7 Standard to vCloud Suite 2019 Standard	CL19-STD7-STD-UG-C	■
STORAGE	VMware vSAN 7 Advanced for 1 processor	ST7-ADV-C	■
STORAGE	VMware vSAN 7 Advanced for Desktop 100 Pack (CCU)	ST7-ADV-DT100-C	■
STORAGE	VMware vSAN 7 Advanced for Desktop 10 Pack (CCU)	ST7-ADV-DT10-C	■
STORAGE	Upgrade: VMware vSAN 7 Advanced for 1 processor to vSAN 7 Enterprise for 1 processor	ST7-ADV-ENT-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Advanced for 1 processor to vSAN 7 Enterprise Plus for 1 processor	ST7-ADV-EPL-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Advanced for Desktop to vSAN 7 Enterprise for Desktop: 100 Pack (CCU)	ST7-D100-ADV-ENT-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Standard for Desktop to vSAN 7 Advanced for Desktop: 100 Pack (CCU)	ST7-D100-STD-ADV-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Standard for Desktop to vSAN 7 Enterprise for Desktop: 100 Pack (CCU)	ST7-D100-STD-ENT-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Advanced for Desktop to vSAN 7 Enterprise for Desktop: 10 Pack (CCU)	ST7-D10-ADV-ENT-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Standard for Desktop to vSAN 7 Advanced for Desktop: 10 Pack (CCU)	ST7-D10-STD-ADV-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Standard for Desktop to vSAN 7 Enterprise for Desktop: 10 Pack (CCU)	ST7-D10-STD-ENT-UG-C	■
STORAGE	VMware vSAN 7 Enterprise for 1 processor	ST7-ENT-C	■

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STORAGE	VMware vSAN 7 Enterprise for Desktop 100 Pack (CCU)	ST7-ENT-DT100-C	████
STORAGE	VMware vSAN 7 Enterprise for Desktop 10 Pack (CCU)	ST7-ENT-DT10-C	████
STORAGE	Upgrade: VMware vSAN 7 Enterprise for 1 processor to vSAN 7 Enterprise Plus for 1 processor	ST7-ENT-EPL-UG-C	████
STORAGE	VMware vSAN 7 Enterprise for Desktop - Horizon Add-on 100 Pack (CCU)	ST7-ENT-HA100-C	████
STORAGE	VMware vSAN 7 Enterprise for Desktop - Horizon Add-on 10 Pack (CCU)	ST7-ENT-HA10-C	████
STORAGE	VMware vSAN 7 Enterprise Plus for 1 processor	ST7-EPL-C	████
STORAGE	Upgrade: VMware vSAN 7 Advanced for Remote Office Branch Office (25 VM pack) to VMware vSAN 7 Enterprise for Remote Office Branch Office (25 VM pack)	ST7-RB25-ADV-ENT-UG-C	████
STORAGE	Upgrade: VMware vSAN 7 Standard for Remote Office Branch Office (25 VM pack) to VMware vSAN 7 Advanced for Remote Office Branch Office (25 VM pack)	ST7-RB25-STD-ADV-UG-C	████
STORAGE	Upgrade: VMware vSAN 7 Standard for Remote Office Branch Office (25 VM pack) to VMware vSAN 7 Enterprise for Remote Office Branch Office (25 VM pack)	ST7-RB25-STD-ENT-UG-C	████
STORAGE	VMware vSAN 7 Advanced for Remote Office Branch Office (25 VM pack)	ST7-RBADV-25VM-C	████
STORAGE	VMware vSAN 7 Enterprise for Remote Office Branch Office (25 VM pack)	ST7-RBENT-25VM-C	████
STORAGE	VMware vSAN 7 Standard for Remote Office Branch Office (25 VM pack)	ST7-RBSTD-25VM-C	████
STORAGE	Upgrade: VMware vSAN 7 Standard for 1 processor to vSAN 7 Advanced for 1 processor	ST7-STD-ADV-UG-C	████
STORAGE	VMware vSAN 7 Standard for 1 processor	ST7-STD-C	████
STORAGE	VMware vSAN 7 Standard for Desktop 100 Pack (CCU)	ST7-STD-DT100-C	████

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STORAGE	VMware vSAN 7 Standard for Desktop 10 Pack (CCU)	ST7-STD-DT10-C	■
STORAGE	Upgrade: VMware vSAN 7 Standard for 1 processor to vSAN 7 Enterprise for 1 processor	ST7-STD-ENT-UG-C	■
STORAGE	Upgrade: VMware vSAN 7 Standard for 1 processor to vSAN 7 Enterprise Plus for 1 processor	ST7-STD-EPL-UG-C	■
VI7-VCENTER	VMware vCenter Server 7 Foundation for vSphere 7 up to 4 hosts (Per Instance)	VCS7-FND-C	■
VI7-VCENTER	Upgrade: VMware vCenter Server 7 Foundation to vCenter Server 7 Standard	VCS7-FND-STD-UG-C	■
VI7-VCENTER	VMware vCenter Server 7 Standard for vSphere 7 (Per Instance)	VCS7-STD-C	■
VI7-VSPHERE	VMware vSphere 7 for Desktop (100 VM Pack)	VS7-DT100VM-C	■
VI7-VSPHERE	Upgrade: VMware vSphere 7 Enterprise to vSphere 7 Enterprise Plus for 1 Processor	VS7-ENT-EPL-UG-C	■
VI7-VSPHERE	VMware vSphere 7 Enterprise Plus for 1 processor	VS7-EPL-C	■
VI7-VSPHERE	Upgrade: VMware vSphere 7 Hypervisor to vSphere 7 Enterprise Plus for 1 Processor	VS7-HYP-EPL-UG-C	■
VI7-VSPHERE	Upgrade: VMware vSphere 7 Hypervisor to vSphere 7 Standard for 1 Processor	VS7-HYP-STD-UG-C	■
VI7-VSPHERE	VMware vSphere 7 Remote Office Branch Office Advanced (25 VM pack)	VS7-RBADV25-C	■
VI7-VSPHERE	Upgrade: VMware vSphere 7 Remote Office Branch Office Advanced (25 VM pack) to Enterprise (25VM Pack)	VS7-RBADV-ENT25-UG-C	■
VI7-VSPHERE	VMware vSphere 7 Remote Office Branch Office Enterprise (25 VM pack)	VS7-RBENT25-C	■
VI7-VSPHERE	VMware vSphere 7 Remote Office Branch Office Standard (25 VM pack)	VS7-RBSTD25-C	■
VI7-VSPHERE	Upgrade: VMware vSphere 7 Remote Office Branch Office Standard (25 VM pack) to Advanced (25VM Pack)	VS7-RBSTD-ADV25-UG-C	■

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VI7-VSPHERE	Upgrade: VMware vSphere 7 Remote Office Branch Office Standard (25 VM pack) to Enterprise (25VM Pack)	VS7-RBSTD-ENT25-UG-C	■
VI7-VSPHERE	VMware vSphere 7 Standard for 1 processor	VS7-STD-C	■
VI7-VSPHERE	Upgrade: VMware vSphere 7 Standard to vSphere 7 Enterprise Plus for 1 Processor	VS7-STD-EPL-UG-C	■
CLOUD FOUNDATION	VMware Cloud Foundation 4 Advanced (Per CPU)	CF4-ADV-C	■
CLOUD FOUNDATION	VMware Cloud Foundation 4 Advanced for External Storage (Per CPU)	CF4-ADV-ES-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Advanced Stack (Per CPU)	CF4-B1-ADV-AD-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Advanced Stack for External Storage (Per CPU)	CF4-B1-ADV-ES-AD-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Enterprise Stack (Per CPU)	CF4-B1-ENT-AD-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Enterprise Stack for External Storage (Per CPU)	CF4-B1-ENT-ES-AD-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Standard Stack (Per CPU)	CF4-B1-STD-AD-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Standard Stack for External Storage (Per CPU)	CF4-B1-STD-ES-AD-C	■
CLOUD FOUNDATION	Add on to VMware vSphere 7 to complete VMware Cloud Foundation 4 Starter Stack (Per CPU)	CF4-B1-STR-AD-C	■
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager, NSX DC ADV, vSAN ADV, and Horizon ENT 100 pack (Per CCU)	CF4-B1-VDI-100-C	■
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager, NSX DC ADV, vSAN ADV, and Horizon ENT 10 pack (Per CCU)	CF4-B1-VDI-10-C	■

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CLOUD FOUNDATION	Add on to (VMware vSphere 7 and VMware NSX) to complete VMware Cloud Foundation 4 Advanced Stack (Per CPU)	CF4-B2-ADV-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and VMware NSX) to complete VMware Cloud Foundation 4 Advanced Stack for External Storage (Per CPU)	CF4-B2-ADV-ES-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and VMware NSX) to complete VMware Cloud Foundation 4 Enterprise Stack (Per CPU)	CF4-B2-ENT-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and VMware NSX) to complete VMware Cloud Foundation 4 Enterprise Stack for External Storage (Per CPU)	CF4-B2-ENT-ES-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and VMware NSX) to complete VMware Cloud Foundation 4 Standard Stack (Per CPU)	CF4-B2-STD-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and VMware NSX) to complete VMware Cloud Foundation 4 Starter Stack (Per CPU)	CF4-B2-STR-AD-C	████
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC ADV w/o Horizon ENT 100 pack (per CCU)	CF4-B2-VDI-100-C	████
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC ADV w/o Horizon ENT 10 pack (per CCU)	CF4-B2-VDI-10-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Advanced Stack (Per CPU)	CF4-B3-ADV-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Advanced Stack for External Storage (Per CPU)	CF4-B3-ADV-ES-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Enterprise Stack (Per CPU)	CF4-B3-ENT-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7 and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Enterprise Stack for External Storage (Per CPU)	CF4-B3-ENT-ES-AD-C	████

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CLOUD FOUNDATION	Add on to (VMware vSphere 7 and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Starter Stack (Per CPU)	CF4-B3-STR-AD-C	████
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC ENT+ w/o Horizon ENT 100 pack (Per CCU)	CF4-B3-VDI-100-C	████
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC ENT+ w/o Horizon ENT 10 pack (Per CCU)	CF4-B3-VDI-10-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7, VMware NSX, and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Advanced Stack (Per CPU)	CF4-B4-ADV-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7, VMware NSX, and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Advanced Stack for External Storage (Per CPU)	CF4-B4-ADV-ES-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7, VMware NSX, and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Enterprise Stack (Per CPU)	CF4-B4-ENT-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7, VMware NSX, and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Enterprise Stack for External Storage (Per CPU)	CF4-B4-ENT-ES-AD-C	████
CLOUD FOUNDATION	Add on to (VMware vSphere 7, VMware NSX, and vRealize Suite 2019) to complete VMware Cloud Foundation 4 Starter Stack (Per CPU)	CF4-B4-STR-AD-C	████
CLOUD FOUNDATION	VMware Cloud Foundation 4 Enterprise (Per CPU)	CF4-ENT-C	████
CLOUD FOUNDATION	VMware Cloud Foundation 4 Enterprise for External Storage (Per CPU)	CF4-ENT-ES-C	████
CLOUD FOUNDATION	VMware SDDC Manager 4 for Desktop 100 pack (Per CCU)	CF4-SDDCM-D100-C	████
CLOUD FOUNDATION	VMware SDDC Manager 4 for Desktop 10 pack (Per CCU)	CF4-SDDCM-D10-C	████
CLOUD FOUNDATION	VMware Cloud Foundation 4 Standard (Per CPU)	CF4-STD-C	████

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CLOUD FOUNDATION	VMware Cloud Foundation 4 Standard for External Storage (Per CPU)	CF4-STD-ES-C	■
CLOUD FOUNDATION	VMware Cloud Foundation 4 Starter (Per CPU)	CF4-STR-C	■
VCPP	VMware vCloud Director 10.0 for non-VCPP customers (25 VM Pack)	VCD10-NVC-25VM-C	■
VCPP	VMware vCloud Director 10.0 for non-VCPP customers Per Processor	VCD10-NVC-C	■
VCPP	VMware Cloud Director Availability	VCA-CA-VC-C	■
CLOUD FOUNDATION	VMware SDDC Manager 4 (Per CPU)	CF4-SDDCM-C	■
CLOUD FOUNDATION	VMware SDDC Manager 4 for vSAN (Per CPU)	CF4-SDDCM-VS-C	■
NSX	VMware NSX Advanced Load Balancer per Processor	NX-ALB-C	■
VREALIZE	VMware Integrated OpenStack 7 Carrier Edition for 1 Processor	VR-OST7-CE-C	■
VREALIZE	Upgrade: VMware Integrated OpenStack 7 Data Center to VMware Integrated OpenStack 7 Carrier Edition for 1 Processor	VR-OST7-CE-UG-C	■
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC ADV and vSAN ADV w/o Horizon ENT 10 pack (Per CCU)	CF4-B2-VDI-ST-10-C	■
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC ADV and vSAN ADV w/o Horizon ENT 100 pack (Per CCU)	CF4-B2-VDI-ST-100-C	■
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC EPL and vSAN ENT w/o Horizon ENT 10 pack (Per CCU)	CF4-B3-VDI-ST-10-C	■
CLOUD FOUNDATION	VMware Cloud Foundation for VDI: SDDC Manager and NSX DC EPL and vSAN ENT w/o Horizon ENT 100 pack (Per CCU)	CF4-B3-VDI-ST-100-C	■
VI7-VSPHERE	VMware vSphere 7 Bitfusion for 1 processor	VS7-BF-C	■
HORIZON	VMware Horizon Apps Advanced, v8: 10 Pack (CCU)	HZ8-AP-ADC10-C	■
HORIZON	VMware Horizon Apps Advanced, v8: 100 Pack (CCU)	HZ8-AP-ADC100-C	■

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HORIZON	VMware Horizon Apps Advanced, v8: 10 Pack (Named User)	HZ8-AP-ADN10-C	■
HORIZON	VMware Horizon Apps Advanced, v8: 100 Pack (Named User)	HZ8-AP-ADN100-C	■
HORIZON	Upgrade: Upgrade: VMware Horizon Apps Standard, v8: 10 Pack (CCU) to VMware Horizon Apps Advanced, v8: 10 Pack (CCU)	HZ8-AP-STC-ADC10-UG-C	■
HORIZON	Upgrade: Upgrade: VMware Horizon Apps Standard, v8: 100 Pack (CCU) to VMware Horizon Apps Advanced, v8: 100 Pack (CCU)	HZ8-AP-STC-ADC100-UG-C	■
HORIZON	VMware Horizon Apps Standard, v8: 10 Pack (CCU)	HZ8-AP-STC10-C	■
HORIZON	VMware Horizon Apps Standard, v8: 100 Pack (CCU)	HZ8-AP-STC100-C	■
HORIZON	Upgrade: Upgrade: VMware Horizon Apps Standard, v8: 10 Pack (Named User) to VMware Horizon Apps Advanced, v8: 10 Pack (Named User)	HZ8-AP-STN-ADN10-UG-C	■
HORIZON	Upgrade: Upgrade: VMware Horizon Apps Standard, v8: 100 Pack (Named User) to VMware Horizon Apps Advanced, v8: 100 Pack (Named User)	HZ8-AP-STN-ADN100-UG-C	■
HORIZON	VMware Horizon Apps Standard, v8: 10 Pack (Named User)	HZ8-AP-STN10-C	■
HORIZON	VMware Horizon Apps Standard, v8: 100 Pack (Named User)	HZ8-AP-STN100-C	■
HORIZON	Upgrade: VMware App Volumes Advanced to Horizon Apps Advanced, v8: 10 Pack (CCU)	HZ8-AVA-APADC10-UG-C	■
HORIZON	Upgrade: VMware App Volumes Advanced to Horizon Apps Advanced, v8: 100 Pack (CCU)	HZ8-AVA-APADC100-UG-C	■
HORIZON	Upgrade: VMware App Volumes Advanced to Horizon Apps Advanced, v8: 10 Pack (Named Users)	HZ8-AVA-APADN10-UG-C	■
HORIZON	Upgrade: VMware App Volumes Advanced to Horizon Apps Advanced, v8: 100 Pack (Named Users)	HZ8-AVA-APADN100-UG-C	■

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HORIZON	Upgrade: Upgrade: VMware App Volumes Standard to Horizon Apps Advanced, v8: 10 Pack (CCU)	HZ8-AVS-APADC10-UG-C	████
HORIZON	Upgrade: Upgrade: VMware App Volumes Standard to Horizon Apps Advanced, v8: 100 Pack (CCU)	HZ8-AVS-APADC100-UG-C	████
HORIZON	Upgrade: Upgrade: VMware App Volumes Standard to Horizon Apps Advanced, v8: 10 Pack (Named Users)	HZ8-AVS-APADN10-UG-C	████
HORIZON	Upgrade: Upgrade: VMware App Volumes Standard to Horizon Apps Advanced, v8: 100 Pack (Named Users)	HZ8-AVS-APADN100-UG-C	████
HORIZON	VMware Horizon 8 for Linux: 10 Pack (CCU)	HZ8-LXC-10-C	████
HORIZON	VMware Horizon 8 for Linux: 100 Pack (CCU)	HZ8-LXC-100-C	████
NSX	VMware Horizon 8 Enterprise & NSX Data Center Enterprise Plus for Desktop: 10 Pack (CCU)	HNX-ED-C10-C	████
NSX	VMware Horizon 8 Enterprise & NSX Data Center Enterprise Plus for Desktop: 100 Pack (CCU)	HNX-ED-C100-C	████
SERVICE ASSURANCE	VMware Telco Cloud Operations Device Class 1 Add-on - 100 Device Pack	TEL-CL-C1AD-100-C	████
SERVICE ASSURANCE	VMware Telco Cloud Operations Device Class 1 Add-on - Per Device	TEL-CL-C1AD-C	████
SERVICE ASSURANCE	VMware Telco Cloud Operations Core Platform - 100 Device pack	TEL-CL-CPL-100-C	████
SERVICE ASSURANCE	VMware Telco Cloud Operations Core Platform - Per Device	TEL-CL-CPL-C	████
SERVICE ASSURANCE	VMware Telco Cloud Operations Standard Analytics Add-on - 100 Device Pack	TEL-CL-STA-AD-100-C	████
SERVICE ASSURANCE	VMware Telco Cloud Operations Standard Analytics Add-on - Per Device	TEL-CL-STA-AD-C	████
FUSION	VMware Fusion 12 Player, ESD	FUS12-PLAY-C	████
FUSION	Upgrade: VMware Fusion 10 or Fusion 11 to Fusion 12 Player	FUS12-PLAY-UG-C	████
FUSION	VMware Fusion 12 Pro, ESD	FUS12-PRO-C	████

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FUSION	Upgrade: VMware Fusion 12 Player to Fusion 12 Pro	FUS12-PRO-PLAY-UG-C	■
FUSION	Upgrade: VMware Fusion 10.x, Fusion 10.x Pro, Fusion 11.x, Fusion 11x Pro to Fusion 12 Pro, ESD	FUS12-PRO-UG-C	■
WORKSTATION	VMware Workstation 16 Player for Linux and Windows, ESD	WS16-PLAY-C	■
WORKSTATION	Upgrade: VMware Workstation 14 Player or Workstation 15 Player to Workstation 16 Player	WS16-PLAY-UG-C	■
WORKSTATION	VMware Workstation 16 Pro for Linux and Windows, ESD	WS16-PRO-C	■
WORKSTATION	Upgrade: VMware Workstation 16 Player to Workstation 16 Pro	WS16-PRO-PLAY-UG-C	■
WORKSTATION	Upgrade: VMware Workstation 14.x or 15.x (Pro or Player) to Workstation 16 Pro	WS16-PRO-UG-C	■
VREALIZE	VMware vRealize Network Insight Assurance and Verification (10 pack)	VRNI-NAV-10-C	■
VREALIZE	VMware vRealize Network Insight 6 Remote Office Branch Office (25 VM pack)	VRNI6-25ROBO-C	■
VREALIZE	VMware vRealize Network Insight 6 Advanced (per CPU)	VRNI6-ADV-CPU-C	■
VREALIZE	VMware vRealize Network Insight 6 Advanced for Desktop (10 pack CCU)	VRNI6-ADV-DT10-C	■
VREALIZE	VMware vRealize Network Insight 6 Advanced for Desktop (100 pack CCU)	VRNI6-ADV-DT100-C	■
VREALIZE	Upgrade: VMware vRealize Network Insight 6 Advanced for Desktop (100 pack CCU) to VMware vRealize Network Insight 6 Enterprise for Desktop (100 pack CCU)	VRNI6-ADV-ENT-100DT-UG-C	■
VREALIZE	Upgrade: VMware vRealize Network Insight 6 Advanced for Desktop (10 pack CCU) to VMware vRealize Network Insight 6 Enterprise for Desktop (10 pack CCU)	VRNI6-ADV-ENT-10DT-UG-C	■
VREALIZE	Upgrade: VMware vRealize Network Insight 6 Advanced (per CPU) to VMware vRealize Network Insight 6 Enterprise (per CPU)	VRNI6-ADV-ENT-CPU-UG-C	■

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VREALIZE	VMware vRealize Network Insight 6 Enterprise for Desktop (100 pack CCU)	VRNI6-ENT-100DT-C	■
VREALIZE	VMware vRealize Network Insight 6 Enterprise for Desktop (10 pack CCU)	VRNI6-ENT-10DT-C	■
VREALIZE	VMware vRealize Network Insight 6 Enterprise (per CPU)	VRNI6-ENT-CPU-C	■
NSX	VMWare vRealize Network Insight 6 Enterprise Add-on to VMware NSX DC Enterprise Plus or NSX-T Enterprise Plus for Desktop: 10 Pack (CCU)	VRNI6-ENTAD-NXEPLC10-C	■
NSX	VMWare vRealize Network Insight 6 Enterprise Add-on to VMware NSX DC Enterprise Plus or NSX-T Enterprise Plus for Desktop: 100 Pack (CCU)	VRNI6-ENTAD-NXEPLC100-C	■
NSX	VMWare vRealize Network Insight 6 Enterprise Add-on to VMware NSX DC Enterprise Plus or NSX-T Enterprise Plus (Per Processor)	VRNI6-ENTAD-NXEPLP-C	■
VREALIZE	VMware vRealize True Visibility Suite Advanced (25 OSI Pack)	VR8-TVS-ADO-25-C	■
VREALIZE	Upgrade: VMware vRealize True Visibility Suite Advanced (25 OSI Pack) to VMware vRealize True Visibility Suite Enterprise (25 OSI Pack)	VR8-TVS-ADO-ENO-25-UG-C	■
VREALIZE	VMware vRealize True Visibility Suite Enterprise (25 OSI Pack)	VR8-TVS-ENO-25-C	■
VREALIZE	VMware vRealize True Visibility Suite Standard (25 OSI Pack)	VR8-TVS-STO-25-C	■
VREALIZE	Upgrade: VMware vRealize True Visibility Suite Standard (25 OSI Pack) to VMware vRealize True Visibility Suite Advanced (25 OSI Pack)	VR8-TVS-STO-ADO-25-UG-C	■
VREALIZE	Upgrade: VMware vRealize True Visibility Suite Standard (25 OSI Pack) to VMware vRealize True Visibility Suite Enterprise (25 OSI Pack)	VR8-TVS-STO-ENO-25-UG-C	■
VREALIZE	VMware vRealize True Visibility Suite Advanced per Processor	VR8-TVS-ADV-C	■

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VREALIZE	Upgrade: VMware vRealize True Visibility Suite Advanced for 1 processor to VMware vRealize True Visibility Suite Enterprise for 1 processor	VR8-TVS-ADV-ENT-UG-C	■
VREALIZE	VMware vRealize True Visibility Suite Enterprise per Processor	VR8-TVS-ENT-C	■
VREALIZE	Upgrade: VMware vRealize True Visibility Suite Standard for 1 processor to VMware vRealize True Visibility Suite Advanced for 1 processor	VR8-TVS-STD-ADV-UG-C	■
VREALIZE	VMware vRealize True Visibility Suite Standard per Processor	VR8-TVS-STD-C	■
VREALIZE	Upgrade: VMware vRealize True Visibility Suite Standard for 1 processor to VMware vRealize True Visibility Suite Enterprise for 1 processor	VR8-TVS-STD-ENT-UG-C	■
NSX	VMware NSX Advanced Load Balancer for VDI per CCU - For Deployments between 1,000 and 4,999 CCU	NX-ALB-VDI-4999CCU-C	■
NSX	VMware NSX Advanced Load Balancer for VDI per CCU - For Deployments 5,000 CCU and above	NX-ALB-VDI-5000CCU-C	■
NSX	VMware NSX Advanced Load Balancer for VDI per CCU - For Deployments between 100 and 999 CCU	NX-ALB-VDI-999CCU-C	■
NSX	VMware NSX Advanced Load Balancer for VDI per CCU - For Deployments between 10 and 99 CCU	NX-ALB-VDI-99CCU-C	■
CLOUD FOUNDATION	VMware Cloud Foundation 4 for Remote Office Branch Office (25 VM pack)	CF4-RB-25VM-C	■
CLOUD FOUNDATION	VMware SDDC Manager 4 for vSAN for Remote Office Branch Office (25 VM pack)	CF4-SDV-RB25-C	■
VREALIZE	VMware vRealize Automation SaltStack SecOps add-on to vRealize Suite (Per CPU)	VR8-ATADO-AD-C	■
VREALIZE	VMware vRealize Automation 8 Standard Plus (25 OSI Pack)	VR8-ATSTDP25-C	■
VREALIZE	Upgrade: VMware vRealize Automation 8 Standard Plus (25 OSI pack) to VMware vRealize Automation 8 Advanced (25 OSI Pack)	VR8-ATSTDP25-ATAD25-UG-C	■

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VREALIZE	Upgrade: VMware vRealize Automation 8 Standard Plus (25 OSI pack) to VMware vRealize Automation 8 Enterprise (25 OSI Pack)	VR8-ATSTD25-ATEN25-UG-C	■
VREALIZE	VMware vRealize Automation SaltStack SecOps add-on to vRealize Automation (25 OSI)	VR8-ATADO25P-AD-C	■
VCLLOUD	VMware vCloud Director for SP for Telco NFV 10.0 Customers Per Processor	VC-CD10-TNFV-C	■
TELCO CLOUD	VMware Telco Cloud Infrastructure - OpenStack Edition	TCI-OSE-C	■
TELCO CLOUD	VMware Telco Cloud Infrastructure - Cloud Director Edition	TCI-VCD-C	■
NSX	Upgrade: VMware NSX-T Advanced for Desktop to NSX-T Enterprise Plus for Desktop: 10 pack (CCU)	NSX-T-ADEPLC-10-UG-C	■
NSX	Upgrade: VMware NSX-T Advanced for Desktop to NSX-T Enterprise Plus for Desktop: 100 pack (CCU)	NSX-T-ADEPLC-100-UG-C	■
NSX	VMware NSX-T Advanced per Processor	NSX-T-ADV-C	■
NSX	Upgrade: VMware NSX-T Advanced to NSX-T Enterprise Plus per Processor	NSX-T-ADV-EPL-UG-C	■
NSX	VMware NSX-T Advanced for Desktop: 10 Pack (CCU)	NSX-T-ADVC-10-C	■
NSX	VMware NSX-T Advanced for Desktop: 100 Pack (CCU)	NSX-T-ADVC-100-C	■
NSX	Upgrade: VMware NSX Enterprise per Processor to NSX-T Enterprise Plus per Processor	NSX-T-ENEPL-UG-C	■
NSX	Upgrade: VMware NSX Enterprise for Desktop to NSX-T Enterprise Plus for Desktop: 10 pack (CCU)	NSX-T-ENEPLC-10-UG-C	■
NSX	Upgrade: VMware NSX Enterprise for Desktop to NSX-T Enterprise Plus for Desktop: 100 pack (CCU)	NSX-T-ENEPLC-100-UG-C	■
NSX	VMware NSX-T Enterprise Plus per Processor	NSX-T-EPL-C	■
NSX	VMware NSX-T Enterprise Plus for Desktop: 10 Pack (CCU)	NSX-T-EPLC-10-C	■

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NSX	VMware NSX-T Enterprise Plus for Desktop: 100 Pack (CCU)	NSX-T-EPLC-100-C	████
NSX	Upgrade: VMware NSX-T Professional to NSX-T Advanced per Processor	NSX-T-PF-ADV-UG-C	████
NSX	VMware NSX-T Professional per Processor	NSX-T-PF-C	████
NSX	Upgrade: VMware NSX-T Professional to NSX-T Enterprise Plus per Processor	NSX-T-PF-EPL-UG-C	████
NSX	VMware NSX-T for Remote Office Branch Office (25 VM)	NSX-T-RB-25VM-C	████
NSX	Upgrade: VMware NSX Data Center Standard to NSX-T Advanced per Processor	NSX-T-DCSTD-ADV-UG-C	████
NSX	Upgrade: VMware NSX Data Center Standard to NSX-T Enterprise Plus per Processor	NSX-T-DCSTD-EPL-UG-C	████
NSX	Upgrade: VMware NSX Data Center Standard to NSX-T Professional per Processor	NSX-T-DCSTD-PF-UG-C	████
HORIZON	VMware Horizon 8 Enterprise: 10 Pack (CCU)	HZ8-ENC-10-C	████
HORIZON	VMware Horizon 8 Enterprise: 10 Pack (Named Users)	HZ8-ENN-10-C	████
HORIZON	VMware Horizon 8 Enterprise: 100 Pack (Named Users)	HZ8-ENN-100-C	████
HORIZON	VMware Horizon 8 Standard: 10 Pack (CCU)	HZ8-STD-10-C	████

Exhibit 3



Amendment No.1 to the Master Software License and Services Agreement

This Amendment No. 1 ("**Amendment**") to the Master Software License and Services Agreement identified below ("**MSLA**") is between Customer (as identified below) and VMware International Unlimited Company (formerly known as VMware International Limited), located at Parnell House, Barrack Square, Ballincollig, County Cork, Ireland ("**VIC**" or "**VIL**"), as well as VMware, Inc., located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("**VMware, Inc.**"); VIC and VMware, Inc. hereinafter retrospectively as the case may be referred to as "**VMware**"; Customer, VIC and VMware, Inc. hereinafter referred to individually as "party" or collectively as "parties". Capitalized terms not otherwise defined herein shall have the same meaning ascribed to those terms in the MSLA.

Customer Name: Siemens AG	Customer Address: Otto Hahn Ring 6, Munich, 81739, Germany
MSLA: Master Software License and Services Agreement effective as of November 28, 2012, VMware Contract # 101299	
Amendment Effective Date: (if blank, then the Amendment Effective Date is the last indicated date of execution)	

WHEREAS, Customer and VMware have entered into the MSLA in 2012;

WHEREAS, the parties wish to update and amend the MSLA as described herein;

NOW THEREFORE, the parties agree as follows:

- 1) Exhibit A of the MSLA shall hereby be deleted and replaced with Annex A to this Amendment (Service Terms).
- 2) Exhibit D of the MSLA shall be deleted and replaced with Annex D to this Amendment (Customer's Preferred Resellers).
- 3) Section 10 of the MSLA shall be deleted and replaced with the following:

"10. Corporate Responsibility in the Supply Chain

VMware shall comply with the principles and requirements of the 'Code of Conduct for Siemens Suppliers and Third Party Intermediaries' attached hereto as Annex E to this Amendment (hereinafter referred to as the 'Siemens Code of Conduct')."

- 4) The following clause shall be added to sec. 9.9. of the MSLA:

"9.9.5 In the event that a member of the VMware executive committee is listed as a person on the U.S. Commerce Department Denied Persons List or Entity List, or any similar designated persons list published for the jurisdiction of the territory of the Purchase Order or ELA ("Impediment"), then Customer will be released from payment of the fees due under such Purchase Order or ELA until such Impediment has been lifted, unless Customer was aware or should have been aware of said Impediment at the time of submission of the Purchase Order. Should such Impediment affect VMware's bank account stated on VMware's invoice for direct payment by Customer, then VMware may inform Customer about an alternative payment method, including but not limited to a different bank account that is not subject to such Impediment. VMware will issue an updated invoice, and Customer shall promptly pay the fees stated on such invoice, within the original payment term as referred to in the previous invoice, which will otherwise be deemed null and void.

9.9.6 For the provision of work and services under the MSLA, VMware shall only use employees who are not listed in the relevant German, European and U.S.-American sanctions lists based on foreign trade legislation.

These lists include, but are not limited to, the U.S. Denied Persons List (DPL), the U.S. Unverified List, the U.S. Entity List, the U.S. Specially Designated Nationals List, the U.S. Specially Designated Terrorists List, the U.S. Foreign Terrorist Organizations List, the U.S. Specially Designated Global Terrorists List and the EU's Terrorist List."

- 5) The following clause shall be added to the MSLA:

"Cybersecurity

1. When fulfilling its obligations under the MSLA, VMware shall comply with Annex F to this Amendment (Siemens Cybersecurity Rules for Third Parties). VMware warrants that, to its knowledge, no portion of the Software contains, at the time of delivery, any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus" or other computer software routines or hardware components designed to: (i) permit access or use of either the Software or Customer's computer systems by VMware or a third party not authorized by the MSLA, (ii) disable, damage or erase the Software or data, or (iii) perform any other similar actions ("Disabling Code"). The following shall not be deemed Disabling Code: (1) a feature through the user interface that permits a user to access VMware's Web site through a browser over the Internet to access the support and subscription services or to register the Software, or (2) serial numbers that deactivate evaluation copies of the Software after a period of time, making the Software unusable, or (3) code which limits the number of processors upon which the Software will operate, the number of concurrent Virtual Machines executing, or code which limits any specific Virtual Machine to a given number of virtual processors. VMware Software and Support Services are developed in line with industry best standards and a state-of-the-art software and security development life cycle program.

2. IT Security and Quality Management

- a. VMware has established, implemented and applies the measures set out in Annex F, or, to the extent specific measures are not set out in Annex F, appropriate and state of the art organizational and technical measures, to ensure the availability, integrity, authenticity and confidentiality of its Information Systems, information system components or processes and Customer data submitted to or collected by VMware under this Agreement and VMware shall commit its personnel and approved sub-contractors to align with industry standard ISO 20000 and ISO 27000 series and further technical standards according to applicability.
- b. VMware shall ensure the compliance with the security and quality management requirements stipulated in Section Cybersecurity 2.a. during the Term, including all communication and collaboration between VMware and Customer within the scope of the MSLA. Where VMware in performance of its obligations under the Agreement gets access to Customer's IT systems in presence of Customer personnel (e.g. during Webex sessions) or performs services at the premises of the Customer in presence of Customer personnel, Customer's personnel is responsible to ensure compliance with Customer policies. In so far as VMware in performance of its obligations under the Agreement gets access to Customer's IT systems or performs services at the premises of the Customer on an exceptional basis without Customer personnel being present, the policy "Siemens Rules for Business Partners" (attached hereto as Annex G) shall apply.
- c. VMware has established, implemented and applies the standards, processes and methods set out in Annex F, and to the extent specific standards, processes and methods are not set out in Annex F, state of the art standards, processes and methods, to prevent, identify, evaluate and remediate Vulnerabilities, Malicious Code and Security Incidents in the Software ("Security Incident" means a confirmed breach of security of the Services leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customers data).
- d. VMware shall continue to support and provide services to repair, update, upgrade and maintain the Software for the period and at the Support Level which Customer has purchased in line with Annex A and the VMware's Product Life Cycle matrix which can be accessed under <https://www.vmware.com/support/lifecycle-policies.html#glance>. In addition, VMware provides remediation for security Vulnerabilities at <https://www.vmware.com/security/advisories.html>
- e. VMware shall itself regularly perform or have performed by third parties state of the art vulnerability assessments, including but not limited to source code reviews and penetration tests (i) before delivery, on the Software and (ii), at least monthly vulnerability scans on the Information Systems, components or processes of Information Systems used for the development and delivery of the Software or Information Systems hosting or processing Confidential Information and (iii), penetration tests at least annually or in the event of a material change on the Information Systems, components or processes of Information Systems used for the development and delivery of the Software or Information Systems hosting or processing Confidential Information.

VMware shall adequately document the technical scope and the findings of such vulnerability assessment.

VMware shall at least annually, engage, at its expense, a third-party service provider to perform penetration testing of VMware's systems related to the provision of services. The method of test scoring and issue ratings shall follow industry standard practices, such as the latest Common Vulnerability Scoring System ('CVSS'). Upon written request by Customer, VMware shall provide evidence of such testing.

Customer shall have the right, but not the obligation, to test the Software implemented on Customer's systems or have the Software that is implemented on Customer's systems tested by a third party at any time for Malicious Code and Vulnerabilities, provided that such tests and any potential findings are protected by Customer as Confidential Information in line with section 9.14 of the Agreement and Customer also ensures that any third party complies with obligations of confidentiality as least as restrictive as those set forth in section 9.14 of the Agreement with regard to the tests and potential findings. Customer's right shall include the right to carry out penetration tests on Customer's systems running the Software. Customer shall inform VMware of any findings made in such tests (if any) and VMware shall address such findings in line with VMware's Security Response Policy. The Customer or its Third Party will bear all costs for any and all tests carried out by or on behalf of Customer. Any test carried out by Customer does not restrict the obligations of VMware under this Agreement.

- f. All known Vulnerabilities and Malicious Code discovered in VMware's Information Systems, components or processes of information systems used for the development and delivery of the Software and for Information System hosting or processing Confidential Information shall be remediated by VMware within a reasonable timeframe in each case taken into account the severity of such defects.

Vulnerabilities in the Software and respective fixes are reported on VMware's website under <https://www.vmware.com/security/advisories.html> and sent to subscribers of the VMware Security Announce mailing list (subscription through aforementioned website). VMware shall, upon becoming aware of a Security Incident, and in any event no later than 72 hours upon becoming aware of such security incident, inform Customer and fully cooperate with Customer concerning any legally required notifications or disclosures to affected persons and/ or government authorities with each party bearing its own costs.

- g. In the event of a security incident on Customer's systems, confirmed or suspected with high confidence to be a result of a vulnerability in VMware Software and where no fix or advisory has been made available (as describe under section f) , Customer will notify VMware via the vulnerability reporting mechanism provided at https://www.vmware.com/support/policies/security_response.html. VMware shall provide reasonable cooperation to ascertain the effect of the vulnerability, and where a vulnerability in VMware Software has been confirmed provide guidance or a remedy, either directly or via an advisory (as described under section f).

- h. The contact at VMware for Customer for all security related issues is:

security@vmware.com or as otherwise notified on https://www.vmware.com/support/policies/security_response.html

The contact at Customer for all security related issues can be found at <http://www.siemens.com/cert/advisories>.

- i. VMware (or third parties engaged by VMware) audits its compliance against data protection and information security standards on a regular basis. The specific audits, and the data protection and information security certifications VMware has achieved, will necessarily vary depending upon the nature of the Services in question. Upon Customer's written request, once every twelve (12) months, and subject to obligations of confidentiality, VMware will make available to Customer a summary of its most recent relevant audit report and/or other documentation reasonably required by Customer which VMware makes generally available to its customers, so that Customer can verify VMware's compliance with the DPA (as attached as Annex B).

VMware upon request will provide Customer an attestation of the information security policies within the company once every twelve (12) months during the term of the Agreement, to confirm the operation of an Information Security Management System". Customer may request VMware to share the attestation with at least seven (7) business days' notice. VMware attestation of information security practices is VMware "Confidential Information" in relation to the Agreement and must not be shared with any third parties. The attestation will not be valid past the year for which it is provided, and Customer shall destroy all copies on completion of the term and assure VMware of the document's destruction.

If the above does not reasonably satisfy the Customer's compliance requirements, then upon Customer's written request, no more frequently than once every twelve (12) months during the term of the Agreement, VMware will review and complete relevant provisions of a security questionnaire provided by Customer (an example has been provided to VMware by email on 29th of July 2021 by Mr. Oeser/ Customer "Questionnaire objective assessment.xls") to the extent directly related to the Agreement in order to verify that VMware is in compliance with its obligations set forth in the MSLA. Customer will provide VMware at least thirty (30) days prior notice to respond to the security questionnaire. VMware responses to such questionnaire are VMware "Confidential Information" as such term is defined in the Agreement and must not be shared with any third parties.

- j. VMware shall ensure that its personnel and approved sub-contractors will agree in writing and comply with similar rules materially not less than those set forth in this Section on Cybersecurity and that Customer shall always be able to enforce all rights set forth herein.
- k. Breaches of the security provisions contemplated in this Section or in Annex F that are resulting in a security incident so severe that in case of its reoccurrence, it would trigger holding on to the Agreement to be no longer reasonable, shall be deemed a material breach of the Agreement.

3. Third-party Software

VMware will make available updates for applicable open source software vulnerabilities found to critically impact VMware software, based on VMware's risk analysis. The customer may sign up to receive notifications for security advisories and product release notes at https://www.vmware.com/support/policies/security_response.html."

6) Section 6.6 of the MSLA shall be replaced by the following:

"Each party's liability for claims arising out of this Agreement, regardless of whether such liability arises in contract, tort including negligence, misrepresentation, strict liability, or otherwise

- (i) shall not exceed per damaging event 2.000.000 EUR, or if the fees paid in the respective order for the individual Software product (e.g. VMware vSphere or VMware NSX) or Support Services giving rise to the claims are higher, then those fees for the individual Software product or Support Services giving rise to the claim; in case of the redemption of HPP Credits for Software products, the fees paid for an individual Software product in the respective order shall be determined by considering all redemptions for that individual Software product from the HPP fund purchased under that order, and
- (ii) shall not exceed in the aggregate per Contract Year for all claims arising out of the Master Consulting Services Agreement between VMware and Customer, VMware Contract # 00583877 ("MSA") and the MSLA together or any individual contracts concluded thereunder from such damaging events during such Contract Year 100% of the cumulative fees paid by Customer to VMware either directly or/and via its Preferred Resellers during such Contract Year under the MSLA and the MSA, but in no event less than 2.000.000 EUR per Contract Year. "Contract Year" shall hereby mean the 12 month period following the Effective Date of this Agreement or following any anniversary of such Effective Date, respectively, provided that for multi-year contracts for which VMware does not invoice on a yearly basis (e.g. ELAs) for purposes of this section the fees shall be calculated on a pro rata basis (fees divided by contract term)."

7) Section 9.13 of the MSLA shall be replaced by the following:

"Publicity. The use and display of Customer's name, logo, trademarks, and service marks on VMware's website and in VMware's marketing materials in connection with identifying Customer as a customer of VMware will be regulated by and subject to a separate agreement between the parties."

8) Unless expressly provided otherwise in this Amendment, the provisions of the MSLA shall remain unchanged.

9) The parties acknowledge that the MSLA may contain certain written form requirements and that the change of such form requirements may also require the written form. However, the parties agree that - even in light of such stipulation - they want to change this requirement without using the written form.

Therefore, the parties agree that this Amendment and any future notices or amendments to the MSLA may also be executed by electronic signature, using a software tool for electronic signatures. Any clauses in the MSLA referencing written form such as "in writing", "written form" or similar shall be read to include electronic signatures.

Neither party shall contest the enforceability of this Amendment or any future amendments on the basis that these were executed by electronic signature. Upon request of a party, both parties shall again execute this amendment and any future amendments in the form originally required to fulfill the form requirement of the MSLA.

For notices executed by electronic signature as set forth above, section 9.2 of the MSLA shall not apply. Instead, such notices shall be sent per email to the following addresses:

If to VMware:

To: [REDACTED]
CC: [REDACTED]

If to Siemens:

To: [REDACTED]
To: [REDACTED]

Either party may change its address for email delivery by notice to the other party, at least also to be sent to the addresses indicated above or the then-current addresses as communicated by the other party in line with this section.

10) The MSLA's provisions on applicable law and dispute resolution shall apply accordingly to this Amendment.

11) Section 9.7 of the MSLA: The last sentence of Section 9.7 of the MSLA shall hereby be deleted and replaced with the following:

"In case of any contradictions between the provisions of the Agreement and an Exhibit or between the provisions of the Agreement and those of an ELA, Purchase Order or the Product Guide, the following order of precedence shall apply in descending order: Purchase Order, ELA (if any), Exhibits, main text of the Agreement, Product Guide, provided however that any product specific terms of the Product Guide, such as license use rights, license metrics and license notes, including license use rights and terms dictated by third party code, shall take precedence and govern such Software. Definitions used in the Product Guide shall have the meaning given therein, unless otherwise defined in this Agreement. For the avoidance of doubt the term "Data Processing Addendum" shall refer to the DPA attached to this Agreement. The term ELA means: an Enterprise License Agreement and any Amendment thereto entered into for a certain amount of time between VMware and Customer, either directly or through an authorized VMware channel partner, for the purchase of certain VMware offerings such as Software and corresponding Support Services, Service Offerings and Professional Services (including but not limited to PSO Credits and TAMs), as applicable. Such ELA will only become effective with VMware receiving a corresponding Purchase Order for said ELA or, in case the ELA provides for purchase without a PO, upon signature of the ELA as set forth therein."

12) The third section of the preamble of the MSLA shall hereby be replaced with the following:

"In consideration of the mutual promises and upon the terms and conditions set forth below, the parties agree that (i) Customer may purchase licenses to the Software (as defined below), and purchase the Services (as defined below), directly from VMware or from Customer's Preferred Resellers, under the terms set forth herein, and (ii) Customer's Affiliates may purchase licenses to the Software (as defined below), and purchase the Services (as defined below), provided however that the ordering Affiliate (a) has entered into a Participation Agreement as set forth below and (b) purchases from Customer's Preferred Resellers, unless the ordering Affiliate is purchasing an ELA (as defined in section 9.7 of the MSLA) for which VMware at its own discretion has agreed to a purchase directly from VMware. The parties acknowledge and agree that placing a Purchase Order by an Affiliate of Siemens AG under this Agreement will require a "Participation Agreement", substantially in line with the template Participation Agreement attached hereto as Exhibit C. If and to the extent, a Customer Affiliate purchases licenses or services under such Participation Agreement, the respective Customer Affiliate will be regarded as Customer with respect to this Purchase Order under such Participation Agreement; in no event shall Siemens AG be subject of any claims under any purchase of a Customer Affiliate."

Exhibit C of the MSLA shall hereby be replaced with Annex H

13) Section 2.2 Use of Licenses by Affiliates shall hereby be amended to read as follows:

"Solely for licenses purchased by Siemens AG (not its Affiliates) and except for unlimited licenses of Software the following shall apply: Customer may allow its Affiliates (as defined herein) to Deploy and use the Software, and related Technical Support and Subscription Services, as if it were the "Customer" under this Agreement. For the avoidance of doubt, the number of licenses specified in the Purchase Order is the total number of licenses for the Software which the Customer is entitled to use. Customer shall ensure compliance with the terms of this Agreement with regards to such licenses by each such Affiliate, and any breach by an Affiliate shall be deemed a breach by Customer. The parties shall be free to restrict the Deployment and use of the Licenses and related Technical Support and Subscription Services by an Affiliate in an ELA."

IN WITNESS WHEREOF, Customer and VMware have caused this Amendment and any other documentation or agreements incorporated herein by reference, to be signed by their duly authorized representatives.

SIEMENS AG

Signature:

Name:

Title:

Date:

SIEMENS AG

Signature:

Name:

Title:

Date:

VMWARE, INC.

Signature:

Name:

Title: Senior Contracts Administrator

Date: Sep 29, 2021

VMWARE INTERNATIONAL UNLIMITED COMPANY

Signature:

Name:

Title: Legal Operations Project Manager

Date: Sep 29, 2021

List of Annexes to this Amendment:

- Annex A (Service Terms)
- Annex B: (Data Processing Addendum)
- Annex C: intentionally left blank
- Annex D (Customer's Preferred Resellers)
- Annex E (Siemens Code of Conduct)
- Annex F (Siemens Cybersecurity Rules for Third Parties)
- Annex G (Siemens Rules for Business Partners)
- Annex H (Affiliate Participation Agreement)

ANNEX A

Business Hours for all Cloud Services & On-Premise Support Offerings	Monday - Friday
North America, Latin America	8am-6pm (local time)
Alaska, Hawaii	8am - 6pm (PST/PDT)
Europe	8am - 6pm (GMT/GMT +1)
Middle East, Africa	8am - 6pm (GMT +2)
Asia, Pacific Rim	8am - 6 pm (SGT)
India	8am - 6pm (IST)
Japan	9am - 6pm (JST)
Australia/New Zealand	8am-6pm (local time)

VMware Success 360

Overview	
Self Help Access: KB articles, Product Documentation & Communities	Yes
Online Access to Product Updates & Upgrades	Yes
Length of Contract Engagement	1 or 3 Years
Products Supported	All*
Region Coverage	Global / Regional**
Business Hours	8am-6pm (local)***
Reactive Support	
Number of Support Requests	Unlimited
Number of Support Administrators (Individual)	Unlimited
Root Cause Analysis	Severity 1, Upon Request
Senior-Level Support Engineers	Yes
Remote Engineer Engagements	Selected Products
SDK & API Guidance	Yes****
Proactive Support	
Support Services Management	Yes
Support Request Reporting	Yes
Skyline: Advanced Rules & Early Access to New Features	Yes
Global Command Center w/Live Monitoring of Skyline Data	Yes
6 Months Extended Support	Yes*****
Target Responses	
Severity 1 Initial Response	Within 30 Min 24 hrs/day 7 days/week
Severity 2 Initial Response	Within 2 business hours 10 hrs/day 7 days/week
Severity 3 Initial Response	Within 4 business hours 10 hrs/day 5 days/week
Severity 4 Initial Response	Within 8 business hours 10 hrs/day 5 days/week
Success Features	
Comprehensive Business Reviews	Yes
Success Planning	Yes
Adoption Guidance and Workshops	Yes
Digital Learning	Yes
Health Scorecard	Yes

VMware Success 360 for on-premises license products are subject to VMware SnS Terms and Conditions (see below). VMware Success 360 for SaaS and subscription services are subject to [Support for VMware Cloud Service Offerings Terms and Conditions](#) unless otherwise agreed between the parties at the time of purchase.

*With VMware Production Support Entitlements (excluding Carbon Black, CloudHealth, SD-WAN by VeloCloud and select Tanzu Advanced products and any products VMware may acquire in the future and exclude from the Success 360 Offering in the then-current Success 360 documentation) licensed by Customer from VMware for their own internal use (regardless of whether purchased under an ELA or standalone), i.e. excluding any software licensed to Customer for external use e.g. eOEM, MSP etc. In an ELA the scope may be extended to cover previously purchased VMware software and/or Affiliates.

**Global when purchased via ELA and Regional when purchased standalone. A Region shall constitute EMEA, APJ or AMER

***Refer to [VMware Business Hours](#). Excludes Japan. Hours in Japan are 9am-6pm (JST)

****SDK/API guidance subject to [VMware SDK and API Support](#) terms, provided that instead of the standard VMware Support Terms and Conditions, the VMware Technical Support and Subscription Services "SnS"

Terms and Conditions stated below in this Annex A shall apply. The limitation of users does not apply, and length of service will correspond with Success 360 contract dates.

*****Cannot surpass VMware Success 360 contract term and requires a minimum VMware Success 360 contract value of \$175K. This only applies to products covered by VMware's [Extended Support](#) offering.

Features	Production Support
Hours of Operation	24 Hours/Day 7 Days/Week 365 Days/Year
Length of Service	1 or 3 years
Online access to product updates	Yes
Online access to product upgrades	Yes
Products Supported [1]	Support by Product Matrix
Method of Access	Telephone/Web
Response Method	Telephone/Email
Remote Support	Yes
Root Cause Analysis	Available only with VMware Premier Support
Access to VMware Discussion Forums and Knowledge Base	Yes
Max Number of Technical Contacts per Contract	6
Number of Support Requests	Unlimited
Target Response Times Critical (Severity 1) Major (Severity 2) Minor (Severity 3) Cosmetic (Severity 4)	30 minutes or less: 24x7 4 business hours 8 business hours 12 business hours
Business Hours	Monday - Friday

Features	Basic Support
Hours of Operation	10 Hours/Day Monday-Friday
Length of Service	1 or 3 years
Online access to product updates	Yes
Online access to product upgrades	Yes
Products Supported [1]	Support by Product Matrix
Method of Access	Telephone/Web
Response Method	Telephone/Email
Remote Support	Yes
Root Cause Analysis	Available only with Business Critical or Mission Critical Offering
Access to VMware Discussion Forums and Knowledge Base	Yes
Max Number of Technical Contacts per Contract	4
Number of Support Requests	Unlimited
Target Response Times Critical (Severity 1) Major (Severity 2) Minor (Severity 3) Cosmetic (Severity 4)	4 business hours 8 business hours 12 business hours 12 business hours
Business Hours	Monday - Friday

**VMware Technical Support and Subscription Services “SnS” Terms and Conditions
(For On-Premise Software Products)**

VMware, Inc., a Delaware corporation, or VMware International Unlimited Company, a company organized under the laws of Ireland, as applicable (“**VMware**”), will provide Technical Support and Subscription and VMware Success 360 Services (the “**Services**”) as specified in these Terms and Conditions (“**SnS Terms**”) to the customer identified in an Order (“**Customer**”), pursuant to these SnS Terms and the Data Processing Addendum (which is incorporated into these SnS Terms by this reference) and as set forth at the VMware Support Services Website, at <http://www.vmware.com/support/services.html>, provided that the provisions at the VMware Support Services Website shall not lead to a degradation of the Services provided to Customer as described in these SnS Terms. Customer acknowledges and agrees that VMware may update these SnS Terms at VMware’s own discretion, such updated SnS Terms to be published on www.vmware.com/support, provided however, that with regard to Software made publicly available by VMware on the Effective Date of the Agreement, VMware may not degrade the Services provided to Customer compared to the SnS Terms effective on the Effective Date of the Agreement. The VMware entity, effective date, Software, and Services level will be set forth on the applicable enterprise license agreement, SnS order form, Customer’s purchase order, or, if Customer has purchased support on a per-incident basis, in the registration form completed by Customer upon such purchase (each, an “**Order**”). Any terms used but not defined in these SnS Terms have the meanings set forth in the MSLA.

1. Definitions. For the purposes of these SnS Terms, the following definitions apply:

- 1.1 “Content”** means data provided by Customer to VMware to address a Technical Support issue. Content does not include customer account or relationship data that VMware uses in connection with a Technical Support request, or data collected by VMware to verify the support entitlement or to facilitate any communications.
- 1.2 “Data Processing Addendum”** means the VMware Data Processing Addendum attached as Annex B to the MSLA Amendment which is incorporated into and forms part of these SnS Terms.
- 1.3 “Deliverables”** means any reports, analyses, scripts templates, code, or other work results to be delivered by VMware to Customer under these SnS Terms. For the avoidance of doubt, the term code shall not include any code Customer receives as part of the Subscription Services (as defined below); the licenses to the Subscription Services are subject to the MSLA and the VMware Product Guide as set forth in section 2.1 below.
- 1.4 “Error”** means a failure in the Software to materially conform to the specifications described in the applicable product documentation (“**Documentation**”).
- 1.5 “Modified Code”** means any modification, addition and/or development of code scripts deviating from the predefined product code tree(s)/modules developed by VMware for production deployment or use. Modified Code excludes customizable Software options for which VMware offers Services.
- 1.6 “Services Fees”** means the fees for Services specified in a VMware or reseller invoice.
- 1.7 “Services Period”** means the period for which Customer has purchased the Services and any subsequent renewal periods and commences: (a) for Software Licenses for which Services are mandatory, on the date the applicable Software License Key(s) are made available for download, and (b) for Software Licenses for which Services are optional, on the date of purchase of the Services.
- 1.8 “Severity”** is a measure of the relative impact an Error has on the use of the Software, as defined in good faith by VMware, and assigned by Customer when opening a Support request. The following Severity levels apply to all Software:

(a) “**Severity One**” means Customer’s production server or other mission critical system(s) are down and no workaround is immediately available and (i) all or a substantial portion of Customer’s mission critical data is at a significant risk of loss or corruption; (ii) Customer has had a substantial loss of service; or (iii) Customer’s business operations have been severely disrupted.

(b) **“Severity Two”** means that major functionality is severely impaired such that (i) operations can continue in a restricted fashion, although long-term productivity might be adversely affected; or (ii) a major milestone is at risk; or (iii) ongoing and incremental installations are affected; or (iv) only a temporary workaround is available.

(c) **“Severity Three”** means a partial, non-critical loss of functionality of the software such that: (i) the operation of some component(s) is impaired but allows the user to continue using the Software; or (ii) initial installation milestones are at minimal risk.

(d) **“Severity Four”** means general usage questions and cosmetic issues, including errors in the Documentation.

1.9 “Software” shall have the meaning set forth in the Agreement, however, for purposes of these Services Terms, the term “Software” does not include Modified Code, Third Party Products or customized deliverables that VMware creates specifically for Customer..

1.10 “Subscription Services” means any provision of Maintenance Releases, Minor Releases and Major Releases to the Software and related Documentation that VMware provides to Customer.

(a) **“Maintenance Release”** or **“Update”** means a generally available release of the Software that typically provides maintenance corrections only or high severity bug fixes, designated by VMware by means of a change in the digit to the right of the second decimal point (e.g. Software 5.0 >> Software 5.0.1), or for certain Software, by means of a change in the digit of the Update number (e.g. Software 5.0 Update 1).

(b) **“Minor Release”** means a generally available release of the Software that (i) introduces a limited number of new features, functionality and minor enhancements; (ii) fixes for high severity and high priority bugs identified in the current release, and (iii) is designated by VMware by means of a change in the digit to the right of the decimal point (e.g., Software 5.0>>Software 5.1).

(c) **“Major Release,”** also known as an **“Upgrade,”** means a generally available release of the Software that (i) contains functional enhancements and extensions, (ii) fixes for high severity and high priority bugs, and (iii) is designated by VMware by means of a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).

1.11 “Technical Support” means telephone or web-based technical assistance by VMware to Customer’s technical contact(s) regarding installation of the Software, Errors and technical product problems, at the corresponding Services level purchased by Customer.

1.12 “Third Party Products” means any software or hardware that is manufactured by a party other than VMware and is either: (i) not delivered with the Software; or (ii) not incorporated into the Software.

2. Service Terms.

2.1 Provision of Services. VMware will provide Services to the Customer during the Services Period, at the Services level purchased. Customer’s use of a Subscription Service release will be subject to the MSLA, provided that in deviation to section 1.14 of the MSLA the term “Product Guide” means the VMware Product Guide posted at <https://www.vmware.com/download/eula> on the date Customer first installs that release. For clarification, section 9.7 Order of Precedence of the MSLA shall apply.

2.2 End of Availability. VMware may, at its discretion, decide to retire Software and/or Services offering from time to time (**“End of Availability”**). VMware will notify affected customers, and will post information regarding End of Availability and the timeline for discontinuing the affected Services at <https://www.vmware.com/support/policies/lifecycle.html>. VMware has no obligation to provide Services for any Software after the End of Availability data published in the life cycle policy for that Software, provided that VMware will at no time discontinue Support Services within less than 12 months from notice publication on its website. The previous sentence shall not apply to SaaS based Software which shall be supported as described in the applicable ELA.

2.3 Purchase Requirements.

(a) Except as otherwise provided for by VMware, Customer may purchase initial Services only for the most current, generally available release of the Software.

(b) Customer must purchase and/or renew Services at the same Services level for all of the licenses for a particular Software product installed in a given environment, such as Test, Development, QA, or Production (i.e. Customer cannot purchase Production level support for only one license of vSphere in its lab and purchase Basic level support for the other vSphere licenses in that environment). For the avoidance of doubt, such obligations pertain only to the respective business unit which acts as a Customer, e.g. if a business unit of Customer's sectors purchases Services for certain Software Licenses, only such business unit is required to purchase and/or renew such Services at the same Services level in a given functional discipline. Any other business units in the same sector or any other sector of Customer are not affected. Additionally, for avoidance of doubt, business units can access only the Services associated (or corresponding) to licenses within their business unit.

(c) Except as otherwise provided in the applicable price list, the minimum term for any Service offering is one (1) year.

2.4 Exclusions.

(a) Services under these SnS Terms do not cover issues or failures in a VMware Cloud Service or problems caused by the following:

- (i) unusual external physical factors such as inclement weather conditions that cause electrical or electromagnetic stress or a failure of electric power, air conditioning or humidity control; neglect; misuse; operation of the Software with other media not in accordance with the manufacturer's specifications; or causes other than ordinary use;
- (ii) use of the Software that deviates from any operating procedures as specified in the Documentation;
- (iii) Third Party Products, other than the interface of the Software with the Third Party Products;
- (iv) Modified Code;
- (v) left blank;
- (vi) any customized deliverables created by VMware, VMware partners or third-party service providers;
- (vii) use of the Software with unsupported tools (i.e., Java Development Kit (JDK); Java Runtime Environment (JRE)), APIs, interfaces or data formats other than those included with the Software and supported as set forth in the Documentation. Customer may request assistance from VMware for such problems, for an additional fee.

(b) If VMware suspects that a reported problem may be related to Modified Code, VMware shall inform Customer about its suspicion, and may, in its sole discretion,

- (i) request that the Modified Code be removed, and/or
- (ii) inform Customer that additional assistance may be obtained by Customer from various product discussion forums or by engaging VMware's consulting services group for an additional fee.

If Customer decides not to remove the Modified Code despite such request, VMware is relieved of its obligation to provide Services in regard to the reported problem. If the removal reveals that the Modified Code is in fact the cause for the reported problem, VMware is relieved of its obligation to provide Services in regard to such problem and may inform Customer that additional assistance may be obtained by engaging VMware's consulting services group for an additional fee.

2.5 Customer Responsibilities. VMware's obligations regarding Services are subject to the following:

(a) Customer agrees to receive from VMware communications via e-mail, telephone, and other formats, regarding Services (such as communications concerning support coverage, Errors or other technical issues, availability of new releases of the Software, and training options).

(b) Customer's technical contact shall cooperate to enable VMware to deliver the Services.

(c) As between VMware and Customer, Customer is solely responsible for the use of the Software by its personnel and shall properly train its personnel in the use of the Software.

(d) Customer shall report to VMware all problems with the Software without undue delay, and must implement all corrective procedures provided by VMware reasonably promptly after receipt of the corrective procedures.

(e) Customer must protect and backup the data and information stored on the systems on which the Software is used in accordance with any applicable Customer or regulatory requirements before granting access to production systems to VMware or before implementing instructions or patches by VMware.

(f) Customer will have dedicated resources available to work 24X7 on Severity One Errors.

3. Services Offerings and Fees.

3.1 Services Fees.

(a) Services Fees are payable on the effective date specified in the applicable Order or, in the case of a renewal Service Period, no later than the date of commencement of the renewal term, and due in accordance with Section 4.4 of the Agreement. Services Fees are specified in the applicable price list and are non-refundable, except as expressly set forth in these Terms and Conditions or the Agreement.

(b) If Customer renews or adds a Services offering that has a minimum term of one (1) year, Customer may elect to make Services for all of its Software Licenses coterminous with the renewed or added Services. In that case, VMware will prorate the applicable Services Fees to extend the current Services Period to make it coterminous with such renewed or added Services.

(c) For Software that is licensed on a perpetual basis, if a Customer purchases Services after acquiring the Licenses, or had elected not to renew Services and later wishes to re-enroll in the Services, Customer must move to the then-current Major Release of the Software and must pay: (i) the applicable Services Fees for the current Services Period; (ii) the amount of Services Fees that would have been paid for the period of time that Customer had not enrolled in the Services, and (iii) a ten-percent (10%) reinstatement fee on the sum of the Services Fees in (i) and (ii).

(d) If Customer purchases a License to upgrade from one edition of the Software to another (e.g., VMware vSphere Standard to VMware vSphere Enterprise Plus), any unused period of the Services Period on the original License will be converted and used to extend the Services Period for the new License. This paragraph (d) shall not apply to customers who have purchased Services through an enterprise license agreement.

3.2 Advanced and Complimentary Services Offerings.

(a) Certain Services (e.g., Business Critical Support, Mission Critical Support and Mission Critical Support for Workspace ONE) require that Customer also purchase a base level of support. See the Services description at <https://www.vmware.com/support/services.html>.

(b) VMware may at its discretion offer complimentary Services, including VMware Complimentary Update Services for certain Software, as more fully described at the VMware Technical Support Services website at <https://www.vmware.com/support/services/complimentary.html>. "VMware Complimentary Update Services" means the provision of Maintenance Releases and Minor Releases to Customer. This VMware Complimentary Update Service does not include providing any Major Releases.

3.3 Authorized Technical Contacts. The number of authorized technical contacts to which Customer is entitled is limited depending on the level of Services Customer purchased. For the avoidance of doubt, any reference to the term "contract" in context of such limitations (e.g. 6 contacts per contract) is not meant to refer to the MSLA but to the individual contract under which the individual respective Services have been originally obtained. For clarification, an ELA and an ELA Amendment shall constitute two

separate contracts for the purposes of this section. The contact information of authorized technical contacts must be provided on an individual basis (i.e., each technical contact) and must not be a group alias.

3.4 License to Deliverables. If Deliverables are included in the Services, VMware grants Customer a non-exclusive, non-transferrable, irrevocable (except in case of breach of the SnS Terms) perpetual license, without the right to sublicense, to use and copy, for Customer's and its Affiliates' internal business operations only (the "Deliverables License").

4. Payment, Warranty, Limitation of Liability, and Termination

4.1 Payment Terms. As set out in section 4.4 of the MSLA

4.2 Quality of Support Services and Remedies in case of non-conformance. The Services are provided within the framework of a contract for services (dienstvertragliche Leistung). VMware shall perform the Services in a workmanlike manner and in accordance with industry standards. Upon Customer providing VMware with a reasonably detailed written notice to cure within thirty (30) days of occurrence of the non-conformance, VMware will re-perform the Services to achieve commercially reasonable conformance with the above quality statement. If, after reasonable efforts, VMware is not able to correct such non-conformance for reasons for which VMware is responsible, then Customer has the right to terminate for breach in accordance with Section 4.4. Customer is entitled to terminate for breach also without setting a curing period if VMware has seriously and definitely refused to cure a non-conformance. Subject to Section 4.3 below, this section exhaustively provides the rights and obligations of the parties with regard to VMware's liability for non-conformance of Services. For the avoidance of doubt, Customer's rights and remedies set out in Sections 6.1 and 6.2 of the MSLA shall not be limited by the provisions in this Section 4.2..

4.3 Limitation of Liability. As set out in section 6 of the MSLA

4.4 Termination. As set out in sections 8.2, 8.3, 8.4 and 8.5 of the MSLA

5. Customer Support Data

5.1 Submission of Content. In connection with a Technical Support request, Customer may upload Content to VMware's systems. That Content will vary depending on the product and the context of the Technical Support issue. Content may consist of: (a) detailed system information about the failure such as the name and state of the affected operating system, logs, Virtual Machine descriptions (not including the contents of virtual disks or snapshot files), system identifiers, IP addresses, and user identifiers; and (b) core dumps, which may contain a full record of the memory image at the time of the crash including CPU and memory information related to the failure, passwords, cryptographic keys, and/or application data, depending upon the technical state at the time of the failure. Customer is responsible for taking steps necessary to protect any sensitive or confidential information, or Personal Data, included in Content. Those steps may include Customer obfuscating or removing such information or, depending on the product, otherwise working with VMware at the time of submission to limit the disclosure of such information, which VMware will process in case of Personal Data in line with section 5.3 below, and in case of such other information in line with section 9.14 (Confidential Information) of the MSLA, respectively.

5.2 Restricted Content. Customer must not submit any Content to VMware that: (a) Customer does not have the right to provide to VMware; (b) constitutes information that is regulated by the Health Insurance Portability and Accountability Act, as amended and supplemented, and the regulations thereunder (collectively, "HIPAA"), or any similar federal, state, or local laws, rules, or regulations, unless Customer has signed a Business Associate Agreement (as defined by HIPAA) with VMware; (c) contains financial information of any individual; or (d) is regulated by law or regulation without complying with the applicable laws or regulations. If Customer submits any Content in contravention of this Section 5.2, then Customer is solely responsible for the consequences of that submission.

5.3 Personal Data. To the extent Customer provides Personal Data (as defined in the Data Processing Addendum) to VMware as part of the Content, VMware will process the Personal Data in accordance with the Data Processing Addendum.

- 5.4 Use of Content.** VMware may review and analyze Content if and to the extent such review and analysis is necessary to address a Technical Support request. VMware may use the results of that review and analysis (excluding any Personal Data, as defined in the Data Processing Addendum, or Confidential Information), in combination with (i) data VMware collects from Customer regarding Customer's use of the Software (such as configuration, performance, and usage data) and (ii) information VMware maintains about the Customer's account, to provide support to VMware customers, and to improve VMware products, services, and user experiences.
- 5.5 Disclosure of Content.** If VMware is required by a subpoena, court order, agency action, or any other legal or regulatory requirement, to disclose any Content, VMware will provide Customer with notice and a copy of the demand, as soon as practicable (using reasonable efforts to do so within five (5) business days), unless VMware is prohibited from doing so pursuant to applicable law or regulation. If Customer requests, VMware will, at Customer's expense, take reasonable steps to contest and to limit the scope of any required disclosure. Section 9.5 of the DPA shall remain unimpacted.
- 6. Miscellaneous**
- 6.1 Transfer; Assignment.** As set out in section 9.1 of the MSLA
- 6.2 Governing Law.** As set out in section 9.17 of the MSLA
- 6.3 Entire Agreement.** These SnS Terms, the Data Processing Addendum, the applicable Order, the MSLA to the extent it applies, and the information on the VMware Support Services Website as set out in the preamble of the SnS Terms, together constitute the entire agreement of the parties with respect to provision of the Services by VMware to Customer, and supersedes all prior written or oral communications, understandings, and agreements. In case of any conflict between a provision of the Data Processing Addendum and any privacy-related provision in any other part of this Agreement, the respective provision in the Data Processing Addendum shall prevail.
- 6.4 Customer Forms.** As set out in sections 4.1 and 9.8 of the MSLA
- 6.5 Amendment and Waiver.** As set out in sections 9.5 and 9.7 of the MSLA
- 6.6 Severability.** As set out in section 9.6 of the MSLA
- 6.7 Language.** The English language versions of these SnS Terms, the Technical Support guide found at https://www.vmware.com/files/pdf/support/tech_support_guide.pdf, and the policies at <https://www.vmware.com/support/policies/index> are the governing versions of such documents and policies; any translation into languages other than English is for convenience only.
- 6.8 Survival.** Any provision of these SnS Terms that, by its nature and context is intended to survive, including provisions relation to payment of outstanding fees, confidentiality, warranties, and limitation of liability, will survive termination of these SnS Terms. The Data Processing Addendum will continue to be effective to the extent VMware continues to process Personal Data after termination of these SnS Terms.
- 6.9 Use of Third Parties.** VMware may deliver the Services with the assistance of our affiliates or suppliers.

ANNEX B

DATA PROCESSING ADDENDUM

This Data Processing Addendum (“**DPA**”) forms part of the Agreement between the party identified in the Agreement (“**Customer**”) and VMware, and applies to the extent that (i) VMware processes Personal Data on behalf of Customer in the course of providing Services and (ii) the Agreement expressly incorporates this DPA by reference. This DPA does not apply where VMware is the Controller. All capitalized terms not defined in this DPA will have the meanings set forth in the Agreement.

1. DEFINITIONS.

1.1 “**Agreement**” means the written or electronic agreement between Customer and VMware for the provision of the Services to Customer.

1.2 “**Controller**” means an entity that determines the purposes and means of the processing of Personal Data.

1.3 “**Data Protection Law**” means all data protection and privacy laws applicable to the processing of Personal Data under the Agreement.

1.4 “**GDPR**” means Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation).

1.5 “**Personal Data**” means any information relating to an identified or identifiable natural person contained within Customer’s Content as defined in the Agreement.

1.6 “**Personal Data Breach**” means a breach of security of the Services leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data.

1.7 “**Processor**” means an entity that processes Personal Data on behalf of a Controller.

1.8 “**Services**” means any cloud service offering or customer support services provided by VMware to Customer pursuant to the Agreement.

1.9 “**Sub-processor**” means any Processor engaged by VMware or any member of its group of companies that processes Personal Data pursuant to the Agreement. Sub-processors may include third parties or any member of VMware’s group of companies.

2. PROCESSING.

2.1 **Role of the Parties.** As between VMware and Customer, VMware will process Personal Data under the Agreement only as a Processor acting on behalf of the Customer. Customer may act either as a Controller or as a Processor with respect to Personal Data.

2.2 **Customer Processing of Personal Data.** Customer will, in its use of the Services, comply with its obligations under Data Protection Law in respect of its processing of Personal Data and any processing instructions it issues to VMware. Customer shall obtain all necessary data privacy related authorizations, if any, for VMware to process Personal Data pursuant to the Agreement.

2.3 **VMware Processing of Personal Data.**

2.3.1 VMware will comply with Data Protection Law applicable to its provision of the Services, and will process Personal Data in accordance with Customer's documented instructions. Customer agrees that the Agreement is its complete and final instructions to VMware in relation to the processing of Personal Data. Processing any Personal Data outside the scope of the Agreement will require prior written agreement between VMware and Customer by way of written amendment to the Agreement, and will include any additional fees that may be payable by Customer to VMware for carrying out such instructions. Upon notice in writing, Customer may terminate the Agreement if VMware declines to follow Customer's reasonable instructions that are outside the scope of, or changed from, those given or agreed to in the Agreement, to the extent such instructions are necessary to enable Customer to comply with Data Protection Laws.

2.3.2. Without limiting the generality of the foregoing, to the extent the California Consumer Privacy Act of 2018, as amended, Cal. Civ. Code § 1798.100 *et seq.* ("**CCPA**"), applies to any Personal Data, such Personal Data will be disclosed by Customer to VMware for a 'business purpose' and VMware will act as Customer's 'service provider', as such terms are defined under CCPA. VMware will not retain, use or disclose Personal Data for a commercial or any other purpose other than for the specific purpose of providing the Services, as further described in the Agreement, or as otherwise permitted by the CCPA.

2.4 Processing of Personal Data Details.

2.4.1 Subject matter. The subject matter of the processing under the Agreement is the Personal Data.

2.4.2 Duration. The duration of the processing under the Agreement is determined by Customer and as set forth in the Agreement.

2.4.3 Purpose. The purpose of the processing under the Agreement is the provision of the Services by VMware to Customer as specified in the Agreement.

2.4.4 Nature of the processing. VMware and/or its Sub-processors are providing Services or fulfilling contractual obligations to Customer as described in the Agreement. These Services may include the processing of Personal Data by VMware and/or its Sub-processors on systems that may contain Personal Data.

2.4.5 Categories of data subjects. Customer determines the data subjects which may include Customer's end users, employees, contractors, suppliers, and other third parties.

2.4.6 Categories of data. Personal Data that Customer submits to the Services.

3. SUBPROCESSING.

3.1 Use of Sub-Processors. VMware engages Sub-processors to provide certain services on its behalf. Customer consents to VMware engaging Sub-processors to process Personal Data under the Agreement. VMware will be responsible for any acts, errors, or omissions of its Sub-processors that cause VMware to breach any of VMware's obligations under this DPA. A list of Sub-processors that VMware currently engages to provide the Services, to which Customer consents, is attached at Schedule 1 and as otherwise set forth in Section 7.2 with respect to Sub-processors that are members of VMware's groups of companies and process Content pursuant to the Agreement.

3.2 Obligations. VMware will enter into an agreement with each Sub-processor that obligates the Sub-processor to process the Personal Data in a manner substantially similar to the standards set forth in the DPA, and at a minimum, at the level of data protection required by Data Protection Law (to the extent applicable to the services provided by the Sub-processor).

3.3 Notice. VMware will provide a list of Sub-processors that it engages to process Personal Data upon written request by Customer or as otherwise made available by VMware on its website.

3.4 Changes to Sub-processors. VMware agrees (a) to provide prior notice to Customer of any new engagement of a Sub-processor to process Personal Data if the Customer has subscribed to receive notification via the mechanisms that VMware provides for the specific Service; and (b) if Customer objects to a new Sub-processor on reasonable data protection grounds within ten (10) days of receiving the notice, to address Customer's concerns in good faith with a view to achieving resolution, e.g. by (i) putting respective contractual terms in place with such Sub-processor addressing Customer's concerns; (ii) finding an alternative Sub-processor, (iii) preventing the transfer of Customer Personal Data to such Sub-processor or (iv) using such other reasonably acceptable measures to ensure compliance with this Agreement. If VMware is unable or unwilling to do so and VMware permits such Sub-processor to process Personal Data under this DPA, the Customer shall be entitled to terminate the Agreement by notice in writing, such termination being effective as of the date provided in Customer's notice of termination, provided that such date may not be more than thirty (30) days after the date of VMware's notice regarding the appointment of the Sub-processor. In case of such termination, VMware will refund any Services Fees paid by Customer, pro-rated for the remainder of the Services Term.

4. SECURITY MEASURES.

4.1 Security Measures by VMware. VMware will implement and maintain appropriate technical and organizational security measures to protect against Personal Data Breaches and to preserve the security and confidentiality of Personal Data processed by VMware on behalf of Customer in the provision of the Services ("**Security Measures**") as described in Schedule 2. In no event will VMware disclose any Personal Data in a massive, disproportionate, and indiscriminate manner that goes beyond what is necessary in a democratic society. The Security Measures are subject to technical progress and development. VMware may update or modify the Security Measures from time to time provided that any updates and modifications do not result in degradation of the overall security of the Services purchased by the Customer.

4.2 Security Measures by Customer. Customer is responsible for using and configuring the Services in a manner that enables Customer to comply with Data Protection Laws, including implementing appropriate technical and organizational measures.

4.3 Personnel. VMware restricts its personnel from processing Personal Data without authorization (unless required to so by applicable law) and will ensure that any person authorized by VMware to process Personal Data is subject to an obligation of confidentiality.

4.4 Prohibited Data. Customer acknowledges and agrees that the Agreement may prohibit the submission of certain types of Personal Data (such as an individual's financial or health information) to the Services. Customer must not submit to the Services any Personal Data which is regulated by the United States Health Insurance Portability and Accountability Act unless Customer has entered into a business associate agreement with VMware.

5. PERSONAL DATA BREACH RESPONSE.

Upon becoming aware of a Personal Data Breach, VMware will notify Customer without undue delay and will provide information relating to the Personal Data Breach as reasonably requested by Customer. VMware will use reasonable endeavors to assist Customer in mitigating, where possible, the adverse effects of any Personal Data Breach. As information is collected or otherwise becomes available, unless prohibited by law, VMware will provide Customer with a description of the Personal Data Breach, the type of Personal Data that was the subject of the Personal Data Breach, and other information that Customer may reasonably request concerning the affected Data Subjects.

6. AUDIT REPORTS.

VMware (or third parties engaged by VMware) audits its compliance against ISO 27001 and/or equivalent industry data protection and information security standards on a regular basis. Upon Customer's written request, and subject to obligations of confidentiality, VMware will make available to Customer a customer facing copy of the most recent

relevant audit report ("Report") and/or other documentation reasonably required by Customer, so that Customer can verify VMware's compliance with this DPA.

Following Customer's review of such Report, VMware shall reasonably cooperate with Customer's efforts to verify VMware's compliance with this DPA, which efforts may include responding to due diligence questionnaires (and any other questions) from Customer regarding any aspects that are unclear or not adequately addressed within such documentations. If VMware has not provided satisfactory answers within sixty (60) days, or if Customer still has reasonable and specific grounds to suspect non-compliance after provision of responses, Customer may request for an on-site audit which may be exercised under the following conditions:

- a) upon twenty (20) business days' prior notice from Customer, unless shorter notice is required by exigent circumstances as a result of a Personal Data Breach;
- b) The specific concerns or gaps triggering for audit request shall determine the scope of the audit;
- c) Any site visits would be conducted as an escorted and/or structured walkthrough;
- d) Such site visit shall occur at a mutually agreeable time not more than once during any given calendar year (unless required more often by a supervisory authority under exigent circumstances as a result of a Personal Data Breach);
- e) Such site visit shall not unreasonably interfere with VMware or VMware's third party provider's operations;
- f) Any independent third party performing such site visit on behalf of Customer shall execute a nondisclosure agreement with VMware or VMware's third party provider in a form reasonably acceptable to VMware or to VMware's third party provider with respect to the confidential treatment and restricted use of VMware's or any other third party's confidential information;
- g) Customer's designated auditor (independent third party or internal) shall be permitted, for such period as the parties mutually agree in writing, to have access to VMware's key personnel and to review documentation directly relating to the Services provided under this Agreement for the purpose of determining VMware's compliance with the VMware Security Measures, Data Protection Laws and Customer's instructions regarding the protection of Personal Data as per the Agreement;
- h) Customer agrees that the designated independent third party or internal auditor may only share information with Customer that relates directly to the data protection aspects that affect Customer;
- i) Customer agrees further that it will not disclose to any third party any information ascertained by it in connection with any such audit except to the extent required by applicable law or regulation;
- j) Commercially reasonable costs associated with hosting and responding to such audits shall be charged to and are payable by Customer in accordance with the Agreement (except in the event where the audit was due to a Personal Data Breach caused by VMware);
- k) Customer's designated auditor shall not use any audit tool, application, process or system within the VMware IT environment, premises and facilities.

7. DATA TRANSFERS AND EXPORTS.

7.1 Data Transfers. Subject to the conditions set forth in this section 7, VMware may transfer and process Personal Data to and in other locations around the world where VMware or its Sub-processors maintain data processing operations as necessary to provide the Services as set forth in the Agreement, provided that for any data transfers from the EEA or Switzerland, VMware has a data export solution in place as recognized under EU Data Protection Laws.

7.2 Data Transfers from the EEA and Switzerland. The parties acknowledge that VMware has achieved Binding Corporate Rules ("BCR") approval for Personal Data that it processes as a Processor. A copy of VMware's BCR is

available at <https://www.vmware.com/help/privacy/binding-corporate-rules.html> and evidence of VMware's approval is available on the European Commission's website at http://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=613841. VMware will process all European Economic Area (including the UK), or Switzerland Personal Data transferred to it for processing under this DPA in accordance with its BCR, including when such Personal Data is processed outside of the European Economic Area by VMware, any member of its group of companies, or any external Sub-processor appointed by VMware. That notwithstanding VMware Inc. shall enter into EU Model Clauses or use any other statutory European Economic Area personal data transfer mechanism recognized under GDPR with all external Sub-processors located outside the European Economic Area who process European Economic Area, Switzerland, UK, Personal Data in countries that have not been recognized as providing adequate data protection, prior to such Sub-processors accessing such Personal Data. When processing Argentina, Brazil and Israel Personal Data transferred to it for processing under this DPA, VMware will protect such data in line with the principles of VMware's BCR, including its rules on engagement of Sub-processors, and by applying the same Security Measures as for European Economic Area Personal Data transferred to it for processing under this DPA.

In the event that VMware Inc. has entered or will enter into data transfer agreements with Sub-processors based on EU Model Clauses, it does the same for and on behalf of itself, its Affiliates and/or their respective customers.

Customer hereby expressly authorizes VMware Inc.'s closure of such EU Model Clauses on Customer's own behalf and on behalf of Customer's Affiliates located in the EEA, the UK, Argentina, Brazil, Israel, and Switzerland.

Latest from September 27, 2021 for all net new external Subprocessors, and from December 27, 2022 for external Subprocessors already engaged by VMware as of Effective Date, all transfers of European Economic Area or Switzerland Personal Data by VMware to such external Subprocessors located outside the European Economic Area to countries that have not been recognized as providing adequate data protection shall be based on the Standard Contractual Clauses (EU) 2021/914 as of 4 June 2021 ("SCC") under the appropriate module, unless VMware relies on other statutory European Economic Area personal data transfer mechanism. Upon request VMware will inform the Customer whether SCC have been agreed with external Subprocessors already engaged by VMware as of the Effective Date.

If required under applicable law, according to any future binding guidance issued by the European Data Protection Board, the parties shall in good faith negotiate and enter into any additional agreements required to implement the SCC.

VMware may replace the SCC by another statutory European Economic Area personal data transfer mechanism. Upon request, VMware will identify to Customer the specific European Economic Area personal data transfer mechanism used in relation to Subprocessor(s) in scope of the Agreement.

8. DELETION OF DATA.

Following expiration or termination of the Agreement, VMware will delete or return to Customer all Personal Data in VMware's possession except to the extent VMware is required by applicable law or in connection with litigation to retain some or all of the Personal Data (in which case VMware will archive the data and implement reasonable measures to prevent the Personal Data from any further processing). The terms of this DPA will continue to apply to that retained Personal Data, except where VMware uses Customer's Personal Data in a litigation with Customer; in such a case VMware shall be considered the Controller for the Personal Data concerned.

In case of deletion of Personal Data, VMware will confirm such deletion upon Customer's written request.

9. COOPERATION.

9.1 Data Protection Requests. If VMware receives any requests from individuals or applicable data protection authorities relating to the processing of Personal Data under the Agreement, including requests from individuals seeking to exercise their rights under Data Protection Law, VMware will promptly redirect the request to the Customer. VMware will not respond to such communication directly without Customer's prior authorization, unless legally compelled to do so. If VMware is required to respond to such a request, VMware will promptly notify Customer and provide Customer with a copy of the request, unless legally prohibited from doing so.

9.2 Customer Requests. VMware will reasonably cooperate with Customer, at Customer's expense, to permit Customer to respond to any requests from individuals or applicable data protection authorities relating to the processing of Personal Data under the Agreement to the extent that Customer is unable to access the relevant Personal Data in their use of the Services.

9.3 DPIAs and Prior Consultations. To the extent required by Data Protection Law, VMware will, upon reasonable notice and at Customer's expense, provide reasonably requested information regarding the Services to enable Customer to carry out data protection impact assessments ("DPIAs") and/or prior consultations with data protection authorities.

9.4 Legal Disclosure Requests. If VMware receives a legally binding request for the disclosure of Personal Data which is subject to this DPA, VMware shall:

- use every reasonable effort to redirect the third party to request Personal Data directly from Customer, if not prohibited by applicable law;
- promptly notify Customer, unless prohibited under applicable law; and
- upon Customer's request and at Customer's expense, use all lawful efforts to challenge the order for disclosure on the basis of any legal deficiencies under the laws of the requesting party or any relevant conflicts with the law of the European Union or applicable Member State law. In the event VMware is legally prohibited from notifying the Customer, VMware will evaluate the demand for disclosure to determine whether it is legally valid and binding, and will challenge the order on the basis of any legal deficiencies under the laws of the requesting party or any relevant conflicts with the law of the European Union or applicable Member State law, unless VMware reasonably believes the order complies with applicable law. In no event shall VMware disclose any Personal Data in a massive, disproportionate manner.

VMware shall, to the extent legally permitted, provide aggregated annual reports, including information on the number of third-party disclosure request complied with by VMware, as requested by Customer.

10. GENERAL.

10.1 Relationship with Agreement. Any claims brought under this DPA will be subject to the terms and conditions of the Agreement, including the exclusions and limitations set forth in the Agreement.

10.2 Conflicts. In the event of any conflict between this DPA and any privacy-related provisions in the Agreement, the terms of this DPA will prevail.

10.3 Modification and Supplementation. VMware may modify the terms of this DPA as provided in the Agreement, in circumstances such as (i) if required to do so by a supervisory authority or other government or regulatory entity, (ii) if necessary to comply with Data Protection Law, or (iii) to implement or adhere to standard contractual clauses, approved codes of conduct or certifications, binding corporate rules, or other compliance mechanisms, which may be permitted under Data Protection Law, always provided that any such modification may not (i) degrade the initially agreed level of security and data privacy commitments, (ii) limit VMware's liability initially agreed in the Agreement or (iii) expand Customer's liability initially agreed in the Agreement. Supplemental terms may be added as an Annex or Appendix to this DPA where such terms only apply to the processing of Personal Data under the Data Protection Law of specific countries or jurisdictions. VMware will provide notice of such changes to Customer without

undue delay. Where Customer, within thirty (30) days of receiving such notice, objects to any modification or supplementation pursuant to this Section 10.3, then the parties will discuss such concerns in good faith with a view to achieving resolution. If such resolution cannot be achieved because Customer would not be in compliance with Data Protection Laws after having entered into the modification or supplementation, Customer may elect to terminate this Agreement by notice in writing, such termination being effective as of the date provided in Customer's notice of termination, provided that such date may not be more than thirty (30) days after the date of VMware's notice regarding the modification or supplementation pursuant to this Section 10.3. Upon the effective date of the termination, VMware will refund any prepaid Services Fees, prorated as of the effective date of the termination.

Upon request by Customer and notwithstanding Customer's rights under section 10.4 below, VMware and Customer will discuss the DPA in a manner mutually agreed upon by the parties to address the requirements and obligations resulting from: (i) the European Court of Justice Decision Case No. C-311/18 as of July 16, 2020; and (ii) related guidance published by the European Data Protection Board and competent supervisory authorities. In case and in so far as the requirements and obligations result in a legal requirement to change the existing data transfer mechanisms, the parties may enter into good faith negotiations to update the Agreement to reflect how the parties can meet such changed data protection requirements.

10.4 Notice of change and termination right.

VMware confirms that it has no reason to believe that the legislation applicable to it or its Sub-Processors in the provision of the Services, including in any country to which Personal Data is transferred either by itself or through a Sub-Processor, prevents it from complying with this DPA and that in the event of a change it will promptly notify the change to the Customer as soon as it is aware.

In case Customer determines that changes in the legislation applicable to VMware or its Sub-Processors are likely to have a substantial adverse effect on the warranties and obligations provided in this DPA, Customer is entitled to suspend the transfer of Personal Data and/or terminate the Agreement and/or effected Service.

Schedule 1 to DPA

Subprocessors



vmware[®]

Support Services Sub-processors

Last Updated: November 27, 2020

Subcontractor	Country	Services Performed	Justification of transfer (i.e. permitted according to Art. 45 GDPR or protected by appropriate safeguards, Art. 46 GDPR)
Cisco Systems, Inc.	USA*	Online meeting provider	EU Model Clause
Gainsight, Inc.	USA*	Customer success platform	EU Model Clause
Microsoft Corporation	USA*	Email and collaboration tools	EU Model Clause
Salesforce.com	USA*	CRM/Customer support	EU Model Clause
Zendesk, Inc.	USA*	SR management (VMware Tanzu Application Catalog, VMware Secure State, Cloudhealth by VMware VMware's Carbon Black products/services, only)	EU Model Clause
Zoom Video Communications, Inc.	USA*	Online meeting provider	EU Model Clause
Amazon Web Services, Inc.	USA	Hosting provider and platform services (Skyline only)	EU Model Clause
OwnBackup , Inc.	USA*	Backup hosting provider (VMware Carbon Black products/services only)	EU Model Clause
Khoros , LLC	USA*	Hosting user exchange platform (VMware Carbon Black products/services only)	EU Model Clause
Clarizen, Inc.	USA*	Platform used to manage professional <u>services</u> engagements (VMware Carbon Black products/services only)	EU Model Clause
Intercom, Inc.	USA*	Customer chat	EU Model Clause

VMware may hire other companies to provide certain services on its behalf. Sub-processors who may process Content (as defined in the Terms of Service) are itemized below. VMware affiliates may also process Content. As set forth in the Data Processing Addendum, VMware has adequate data transfer mechanisms in place with each sub-processor.

** The country listed is the sub-processor's primary location. VMware purchases the sub-processor's standard offering and thus the sub-processor controls the country in which data is stored.*

If you would like to receive updates to this sub-processor list, please go into your user profile subscription tab settings available at <https://my.vmware.com/group/vmware/profile>, and enable notifications for this sub-processor list.

VMware Affiliates

Subcontractor	Country
VMware Australia Pty Ltd	Australia
VMware Canada Inc.	Canada
VMware Information Technology (China) Co. Ltd	China
VMware Costa Rica Ltda.	Costa Rica
EMC Egypt Service Center Ltd	Egypt
VMware France	France
VMware Global – Germany Branch	Germany
VMware Hong Kong Limited	Hong Kong
VMware Software India Private Limited	India
VMware International Limited	Ireland
VMware International Marketing Limited	Ireland
VMware Israel Ltd.	Israel
VMware K.K	Japan
VMware Singapore Pte. Ltd.	Singapore
VMware Switzerland	Switzerland
VMware UK Limited	United Kingdom
VMware, Inc.	United States
AirWatch LLC	United States
Dell EMC	United States

Schedule 2 to DPA

Security Measures



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Appendix X: Security Measures

Last Updated: August 3, 2020

This Appendix sets out a description of the technical, administrative and organizational security measures (the “Security Measures”, as that term is defined in the Data Processing Addendum) implemented by VMware for the protection of Customer Content submitted to the applicable Services (as that term is defined in the Data Processing Addendum), including Personal Data submitted as part of Customer’s Content (as those terms are defined in the [Terms of Service](#) and the [Support \(“SnS”\) Terms and Conditions](#), respectively).

1. Information Security Program

VMware has implemented and maintains an information security program which is designed to ensure the ongoing confidentiality, integrity, availability, and resilience of information and processing systems.

- a. **Risk Assessment and Risk Treatment** – VMware evaluates information security risks, taking into account the impact of threats and vulnerabilities, and implements information security controls to address security risks.
- b. **Risk Management Process** – VMware maintains a risk management process to ensure information security risks are addressed on an ongoing basis.
- c. **Audit Program** – VMware has an audit program which prescribes the frequency, methods, responsibilities, planning requirements and reporting for all Services. The types of audits will depend on the applicable Services and may include ISO 27001, SOC1, SOC2, HIPAA, PCI, FedRAMP and other industry assessments and certifications. To inquire which audit program(s) your Services participate in, please contact your VMware Sales Representative.
- d. **Continual Improvement** – VMware continually improves the suitability, adequacy and effectiveness of the information security management system. As a part of the continual improvement process, VMware uses internal and external audit results as a means to measure the design and effectiveness of the information security controls. As findings are identified, remediation plans are developed and then implemented.

2. Organization and Management

VMware implements organizational and management controls to ensure the protection of systems processing Customer Content.

- a. **Information Security Policies.** VMware maintains information security policies that are aligned with the ISO 27001 standard, and are reviewed at least annually to ensure appropriate controls, practices and procedures are in place. Key provisions include roles and responsibilities, security by design, defense in depth, principle of least privilege, segregation of duties, audits, control standardization and automation, data classification, risk and value-based security controls, periodic risk assessments, and ongoing monitoring and improvement.
- b. **Confidentiality.** VMware ensures that any person authorized by VMware to process Customer Content is subject to an obligation of confidentiality.
- c. **Screening/Background Checks.** VMware performs screening/background checks on employees who have access to Customer Content in accordance with applicable law and VMware policies.
- d. **Security Awareness Training.** Employees accessing Customer Content are required to complete security and privacy awareness training on an annual basis to understand their obligations and responsibilities in complying with VMware security policies.

3. Physical and Environmental Security



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Physical and environmental security controls are in place to prevent unauthorized physical access, damage and interference to processing facilities hosting Customer Content. VMware or VMware's third-party data center service providers adhere to the following controls:

- a. **Data Center Security.** Data centers hosting Customer Content have physical security controls in place to prevent unauthorized access, including, but not limited to, perimeter controls such as fencing, walls, security staff, video surveillance, and intrusion detection systems.
- b. **Environmental Security.** Data centers maintain power, fire detection, fire suppression, climate and temperature controls to limit the risk related to environmental interference.
- c. **Physical Storage Device Decommissioning.** Where VMware is managing the physical media, VMware has established rules for the safe and permanent destruction of Customer Content stored on physical media. When a storage device has reached the end of its useful life, decommissioning processes are designed and in place to prevent Customer Content from being exposed to unauthorized individuals.

4. Business Continuity

VMware has a Business Continuity (BC) Management Program describing how VMware will respond to events that significantly disrupt our delivery of the Services.

- a. **Business Continuity Plan.** VMware has a Business Continuity Plan ("Plan") intended to identify what preparations must be made in advance of a disruption, as well as the steps to be taken when an event actually occurs. The Plan is reviewed periodically to determine which business processes are most critical and what resources - people, equipment, records, computer systems and office facilities - are required for operation. All documented plans follow an annual standard maintenance and assessment schedule.

5. Application Security

- a. **Security Development Life Cycle.** VMware has a security development lifecycle process designed to identify and mitigate security risk during the development phases of the Services.

6. Logical Security and Access Controls

- a. **Infrastructure Design.** The systems hosting Customer Content have been designed to minimize the impact of anticipated infrastructure risks and single points of failure. Network architecture diagrams are updated periodically.
- b. **Logical Separation.** Customer Content is logically segmented to ensure protection and isolation of Customer Content.
- c. **Firewalls.** VMware has implemented perimeter firewalls to prevent unauthorized access to the Services hosting Customer Content.
- d. **Anti-virus.** To the extent a Services component is commonly vulnerable to malware, anti-malware protections are in place.
- e. **Role-Based Access.** Role based access permissions are assigned to VMware personnel to limit access to Customer Content.
- f. **Production Environment Access.** New VMware personnel access requests are documented and management authorization is required prior to granting access to the Services for appropriate personnel. Administrative access privileges are restricted to authorized personnel.
- g. **System Authentication.** Systems used in the provision of the Services are configured to authenticate VMware personnel with a unique user ID and password. Predefined minimum password requirements are enforced for VMware personnel.
- h. **Deactivation of Accounts.** VMware implements and maintains processes to deactivate accounts of VMware personnel used in connection with the Services upon termination.
- i. **Role Changes.** VMware implements and maintains processes to adjust permissions upon changes in roles within the organization.

ANNEX D**Customer's Preferred Resellers**

1. **SoftwareONE:** All duly VMware authorized SoftwareONE group companies, provided the respective SoftwareONE group company the order is placed at has the necessary level of authorization as required under VMware's Partner program for the respective transaction.
2. **Insight:** All duly VMware authorized Insight group companies, provided the respective Insight group company the order is placed at has the necessary level of authorization as required under VMware's Partner program for the respective transaction.

ANNEX E

SIEMENS**Siemens Group Code of Conduct****for Suppliers and Third Party Intermediaries**

This Code of Conduct defines the basic requirements placed on the suppliers and third party intermediaries of the Siemens Group concerning their responsibilities towards their stakeholders and the environment. The supplier and/or third party intermediary declares herewith to:

Legal Compliance

- Comply with the laws and regulations of the applicable legal systems.

Human Rights and Labor Practices

To ensure respect of all internationally proclaimed human rights by avoiding causation of and complicity in any human rights violations, heightened attention shall be paid to ensuring respect of human rights of specifically vulnerable rights holders or groups of rights holders such as women, children or migrant workers, or of (indigenous) communities.

- **Prohibition of Forced Labor**
 - Neither use nor contribute to slavery, servitude, forced or compulsory labor and human trafficking.
- **Prohibition of Child Labor**
 - Employ no workers under the age of 15 or, in those countries subject to the developing country exception of the ILO Convention 138, employ no workers under the age of 14.
 - Employ no workers under the age of 18 for hazardous work according to ILO Convention 182.
- **Non-Discrimination and Respect for Employees**
 - Promote equal opportunities and treatment of employees, irrespective of skin color, race, nationality, ethnicity, political affiliation, social background, disabilities, gender, sexual identity and orientation, marital status, religious conviction, or age.
 - Refuse to tolerate any unacceptable treatment of individuals such as mental cruelty, sexual harassment or discrimination including gestures, language and physical contact, that is sexual, coercive, threatening, abusive or exploitative.
- **Working Hours, Wages & Benefits for Employees**
 - Recognize the legal rights of workers to form or join existing trade unions and to engage in collective bargaining; neither disadvantage nor prefer members of employee organizations or trade unions.
 - Adhere to all applicable working-hours regulations globally.
 - Pay fair wages for labor and adhere to all applicable wage and compensation laws globally.
 - In the event of cross-border personnel deployment adhere to all applicable legal requirements, especially with regard to minimum wages.
- **Health & Safety of Employees**
 - Act in accordance with the applicable statutory and international standards regarding occupational health and safety and provide safe working conditions.
 - Provide training to ensure employees are educated in health & safety issues.
 - Establish a reasonable occupational health & safety management system¹.
- **Grievance Mechanism**
 - Provide access to a protected mechanism for their employees to report possible violations of the principles of this Code of Conduct.

SIEMENS

Environmental Protection

- Act in accordance with the applicable statutory and international standards regarding the environment. Minimize environmental pollution and make continuous improvements in environmental protection.
- Establish a reasonable environmental management system¹.

Fair Operating Practices

- Anti-Corruption and Bribery
 - Tolerate no form of and do not engage directly or indirectly in any form of corruption or bribery and do not grant, offer or promise anything of value to a government official or to a counterparty in the private sector to influence official action or obtain an improper advantage. This includes to renounce from giving or accepting improper facilitation payments.
- Fair Competition, Anti-Trust Laws and Intellectual Property Rights
 - Act in accordance with national and international competition laws and do not participate in price fixing, market or customer allocation, market sharing or bid rigging with competitors.
 - Respect the intellectual property rights of others.
- Conflicts of Interest
 - Avoid and/or disclose internally and to Siemens all conflicts of interest that may influence business relationships, and to avoid already the appearance thereof.
- Anti-Money Laundering, Terrorism Financing
 - Not directly or indirectly facilitate money laundering or terrorism financing.
- Data Privacy
 - Process personal data confidentially and responsibly, respect everyone's privacy and ensure that personal data is effectively protected and used only for legitimate purposes.
- Export Control and Customs
 - Comply with the applicable export control and customs regulations.

Responsible Minerals Sourcing

- Take reasonable efforts to avoid in its products the use of raw materials which originate from Conflict-Affected and High-Risk Areas and contribute to human rights abuses, corruption, the financing of armed groups or similar negative effects.

Supply Chain

- Use reasonable efforts to make its suppliers comply with the principles of this Code of Conduct.
- Comply with the principles of non-discrimination with regard to supplier selection and treatment.

¹ www.siemens.com/code-of-conduct/managementsystems

Annex F



Version:	2.6
Date:	22.12.2020
Status:	[Status]
Classification:	[Kategorie]
Core process:	SCM

Security of our know-how is essential to the success of our company.

[Kategorie] © Siemens AG 2020

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1 General provisions

Supplier shall adhere to the cyber security requirements as set out herein (in the following “Cybersecurity Requirements”) and shall ensure that its personnel and any subcontractor will also adhere to them.

2 Definitions

For the purpose of the Cybersecurity Requirements, the terms set forth shall have the following meaning:

“Agreement”	shall mean the agreement which is including or referring to this Appendix.
“Content”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement, Content shall mean information or data obtained, generated, exchanged, collected and stored in conjunction with the Products and/or Services.
“Good Security Practice”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement, Good Security Practice shall mean the degree of skill, care, diligence, prudence, timeliness, efficiency and foresight of a skilled, experienced and professionally managed supplier providing products and/or services identical or similar to the Products and/or Services including but not limited to compliance with the ISO 20000 and ISO 27000 series and further technical standards according to applicability (e.g. IEC 62443, NIST Cybersecurity Framework, NIST SP 800-X, BSI IT-Grundschutz, PCI-DSS).
“Information System”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement, Information System shall mean a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

“Product”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement, Product shall mean any item, hardware, parts, accessories and components pertaining thereto, any software and documentation and any other product ordered under the Agreement.
“Siemens”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement Siemens shall mean the legal entity and/or the legal entities procuring the Products and/or Services under the Agreement.
“Service”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement, Service shall mean any services including, but not limited to work, labor, commissioning, maintenance, technical support, consulting, training to be performed by Supplier under the Agreement.
“Supplier”	shall have the same meaning as defined in the Agreement. In case the term is not defined in the Agreement, Supplier shall mean the legal entity and/or the legal entities providing the Products and/or Services under the Agreement.

3 Cybersecurity Requirements

3.1 Cybersecurity Framework

The Supplier shall have an own mature framework to address a secure by design, defense in depth approach to designing, building, maintaining and retiring Products and/ or Services (“Cybersecurity Framework”). The Cybersecurity Framework shall be established in the sense of ISO 2700x series including but not limiting to information security policies, standards and processes as well as respective governance in order to protect the confidentiality, integrity and availability of Content and the Product and/ or Service adequately against the current general and Supplier specific threat landscape. The Supplier shall include Cybersecurity by design and default in its Product and/ or Service and all related Information Systems as well as those related to the Content according to Good Security Practice (“security by design” and “security by default”). This includes the complete lifecycle of the Product and/ or Service as well as all Information Systems (refer to ISO 2700x) required for its delivery.

Supplier shall comply with safe software development methods at least by adhering to state-of-the-art secure coding standards and guidelines (eg. current OWASP standards, if applicable or other).

3.2 Industry Standards and Certifications

To the extent applicable for the Product and/or Service Supplier shall comply with and shall be certified in accordance with the following industry standards all in their most recent version:

- ISO/IEC 27001

and provide certificates including statement of applicability to Siemens on written request as well as all further applicable and available Supplier's certifications or other evidences for necessary capabilities in scope of the MSLA in the context of Cybersecurity (e.g. IEC 62443-4-1, PCI-DSS). If any of the relevant certificates become obsolete during the term of the Agreement, Supplier shall assure to continuously re-certify the system relevant for the Service provision in time, or provide relevant assurance materials to attest to an equivalent level of security. Supplier shall also comply with all applicable laws and regulations related to the Service.

In case Supplier is not able to provide at least one of the named applicable certifications Supplier shall perform the Product and/ or Service at all times in a professional and workmanlike manner in order to ensure that any Information Systems related to the Product and/or Service will be provided in accordance with:

- the latest security-related controls and procedures that are applied by first-tier providers of similar services in order to ensure that the Content as well as the Product and/or Service are sufficiently protected,
- Good Security Practice to the extent applicable to the Product and/or Service and
- all applicable laws and regulations related to the Product and/or Service.

3.3 Assurance Reports

Supplier shall regularly provide the current SSAE-18 SOC2 Type II audit report or other similar proofs/ evidences (e.g. external audit reports) of an implemented and effective cybersecurity framework hereof upon Siemens written request, but not more than once per year. If there is no SSAE-18 SOC2 Type II certificate or adequate evidence from external audit available, Supplier shall fill out a self-assessment form delivered by Siemens (an example is attached as Exhibit XY) in form of an RFx or Questionnaire to show that Supplier's Cybersecurity Framework is at a level equivalent to SSAE-18 SOC2 Type II. Supplier shall manage identified gaps in the same way as other audit findings. Supplier shall provide a roadmap which describes the remediation schedule timely after the provision of the findings, regular status updates on the progress of the roadmap and a statement of compliance after completion of the roadmap.

ANNEX G



Scope and Applicability

The Rules for Business Partners apply to business partners of Siemens who have access to IT systems, applications, networks, or to any Content¹ business partner has access to due to a contractual relationship.

The defined rules and principles herein apply independently whether the business partner uses IT systems of Siemens or its own IT systems, if the business partner works in a Siemens office or not, or if a connection to IT resources of Siemens is set up (e.g. to an IT system or an IT application).

For the avoidance of doubt, the Cybersecurity clauses of an underlying agreement shall remain applicable.

Responsibilities

The business partner of Siemens is granted access to IT systems, applications, networks or Content to fulfill its contractual obligations and to increase the efficiency of business processes.

This requires measures for the protection of IT systems, applications, networks, and Content to prevent unintentional disclosure, unauthorized access, manipulation, computer viruses, hacking, cyber-attacks and other IT security threats. For that purpose, it is necessary that business partners of Siemens comply with the following rules

¹ Content shall mean information or data (not in the public domain) obtained, generated, exchanged, collected or stored based on all kinds and formats, including digital format (e.g. data stored on electronic or optical media), or physical (e.g. paper), numerical, audiovisual, graphical, cartographical, narrative or in intangible format (e.g. know-how), either owned by Siemens or processed on behalf of its customers and suppliers and accessible for business partner.

and principles and that protective measures are not deactivated, circumvented or changed in any other way, all such measures in consistence with industry best Cybersecurity standards (e.g. ISO27001).

The business partner shall comply with the herein defined rules and principles in addition to the contractual agreement and to bring this document to attention and consistent adherence to its employees and any subcontractors who have access to IT systems, applications and networks of Siemens or receive Content.

In this policy, the term “business partner” is used throughout to refer to business partners and their employees.

The business partner is obliged to adhere to the guidance and regulations of Siemens for the security of IT systems, applications, and networks.

In case business partner employees are fulfilling their contractual obligations remotely (neither on Siemens nor on business partner premises), business partner shall ensure that its employees also adhere to business partner’s industry best remote working policies in addition to the requirements stipulated in this document and the underlying agreement (e.g. via awareness trainings for securely working from home).

Rules and Principles

Training of Business Partner Personnel

To fulfill the contractual obligations, business partner shall only engage personnel educated in industry best information security (and secure coding, where applicable) and ensures to upgrade their knowledge on a frequent basis (at least once per calendar year).

Business partner personnel engaged by Siemens shall make themselves familiar with Siemens’ information security policies, standards and guidelines and shall attend information security trainings, if requested by Siemens at not extra cost to VMware.

Handling of Content

Business partner shall adhere to and make use of the communication and collaboration solutions for Information exchange provided by Siemens (see “[Secure Communication and Collaboration with Siemens](#)”), if not agreed otherwise between the parties. Any form used to conceal, distort, or forge the identity or the meaning of Content by the business partner is prohibited.

Protection of Content

Regardless of the form in which it appears, or the information medium employed, all Content must be protected in accordance with its level of classification of confidentiality, integrity, and availability.

For Content owned by Siemens there are three protection classes: “Restricted”, “Confidential” and “Strictly Confidential”. In relation to the protection classes, the identification/creation, distribution, dispatch and transmission, retention and storage as well as disposal/destruction/deletion shall comply with measures that are more stringent as the need for protection increases.

The business partner defines the level of confidentiality of the Content it creates in consultation with its respective contact at Siemens. The business partner is obliged to comply with the protection measures defined by Siemens for the Content entrusted.

Content shall only be stored and processed on IT systems, applications and file storage systems that guarantee an adequate protection of the information, i.e. Content with protection classes “Confidential” shall be stored and processed encrypted and for “Strictly Confidential” shall be encrypted end-to-end.

The business partner shall neither produce copies or reproductions of Content, nor delete, examine, or modify such Content without the prior consent of Siemens or unless contractually agreed otherwise between the parties.

Transmission of e-mails

Secure e-mailing pertains to e-mail correspondence originating from or between business partner's employees and contractors, IT systems, applications, and Siemens.

E-mails, which must guarantee the integrity and the level of confidentiality of the Content and the identification of the sender, including but not limited to:

- e-mails with commercial or legal impact
- e-mails which require user interaction
- e-mails which are related to critical security services
- e-mails which contain potential malicious content (e.g. URLs, attachments),

shall be, in adherence to industry best standards (e.g. NIST SP800-177R1, TN-1945 or BSI ISi-Mail-Server), digitally signed and transmitted in encrypted form end-to-end for Content with protection classes "Confidential" or "Strictly Confidential" (e.g. using the S/MIME standard http://www.siemens.com/digital_id_en; please refer to "Secure Communication and Collaboration with Siemens").

The automatic forwarding of incoming e-mail to external mailboxes, e-mail spamming, misuse of Siemens e-mail addresses (e.g. adding e-mails to mailing lists without explicit consent) is prohibited as well as the transmission of confidential or strictly confidential Content via fax.

Deletion of Content

The business partner shall delete reliably all Content from all its information media which is not or not any more of relevance for the provision of the contractually agreed tasks or activities, except retention is contractually agreed or required according to applicable laws and regulations.

Content stored in electronic or paper format shall be deleted, sanitized and disposed depending on its level of confidentiality (i.e. Content with protection classes "Confidential" or "Strictly Confidential" irretrievably) in adherence to industry best standards (e.g. BS EN 15713 – protection level 6, NIST SP800-88, DIN 66399-2).

System Access and Admission Authorizations

If required and not otherwise agreed between the parties, business partner shall access Siemens' network and Content solely by Siemens provided access solution depending on the protection level of the respective IT system, application and network (e.g. via Siemens' business partner access solutions).

Business partner shall log any of its access to Siemens and protect any connection between Siemens' intranet and its environment against access from third parties.

The business partner shall only exercise received system access and admission authorizations (e.g. password or access cards) for the fulfillment of its contractually agreed tasks and activities. Such system access and admission authorizations shall be restricted based on the principles of "least privilege", "need to know" and "segregation of duties".

Business partner shall timely inform Siemens in case of any changes of business partner's employees or subcontractors having access to Content.

The admissions, all related technical configuration or cryptographic material shall be kept confidential and shall be neither shared with any third party nor made public.

The business partner shall not circumvent or misuse such access solution and related security mechanisms.

System and Data Access Protection

IT systems and information media used by the business partners or provided by Siemens to fulfill their contractual obligations must be protected against unauthorized access, including physical security for business partner's working environment, via industry best measures.

IT systems and information media provided by Siemens

IT systems and information media provided by Siemens are secured and regularly monitored based on Siemens rules and regulations and such security measures shall not be circumvented by the business partner (no manipulation or bypassing). Business partner shall handle such IT systems and information media with due care, including at a minimum the following protection measures:

- Making use of theft protection for mobile systems.
- No misuse or unauthorized access when sharing resources.
- Use of different passwords per user account (anonymous and guest access to be disabled).
- No elevating of access privileges without Siemens preceding approval.
- Switching off voice-controlled smart devices or any webcams in the working area not required for business purposes (e.g. Amazon Alexa, Apple Siri).
- Logging off and storing the devices securely if not in use.
- Paper documents containing confidential or strictly confidential Content shall not be openly accessible or left unsupervised. They shall be locked away with appropriate protection mechanisms.

IT systems and information media owned by business partner

In addition to section 2.4.1 the following measures are additional minimum protection measures for IT systems information media owned by business partner:

- Current Bios version installation and Bios password activation.
- No use of permanent local administration rights.
- Enabling screensaver with password protection of the operating systems (as system lock for unattended IT systems).
- Activation of hard disk and file encryption.
- industry best protection against viruses and similar malicious software provided the IT systems or information media are subject to such risks. Current and permanently active virus protection must be used for PC systems, including an endpoint detection and response agent.
- Securing of network access via password as a minimum to protect against illicit and malicious network traffic (e.g. white listing).
- No use of standard passwords. Deletion of initial passwords after receipt and expiry after 24 hours.

- Passwords shall be created from a combination of uppercase and lowercase characters, numerals, and special characters. Passwords shall contain a minimum of 12 characters (26 characters for administrator accounts). For PINs arbitrary numerals shall be used. Passwords shall be changed every 180 days (45 days for privileged administrative accounts), except the password is part of a two-factor authentication. The last 10 passwords shall not be reused.
- For access to confidential and strictly confidential Content two-factor authentication is required.
- During access to Siemens IT systems and networks no additional internet connection of the device shall be accessible.
- No use of network or system analysis devices without the explicit preceding approval of Siemens.
- Network devices connected to and third-party software used on such devices must be under regular support and maintenance and business partner shall ensure to have their current patch level applied.

Information Obligation, Cybersecurity Contact, Monitoring

Information obligation

The business partner shall inform the defined contact persons by Siemens (incl. Cybersecurity contact, contract owner) about any operational disruptions, identification of faults and damage factors (e.g. computer viruses, program malfunctions) in all IT systems, applications, networks or software used in their collaboration.

In case the business partner identifies vulnerabilities or security incidents or any suspicion thereof, it will notify Siemens immediately, e.g. suspicion of misuse or disclosure of PINs/passwords.

Cybersecurity contact

Next to the respective Siemens contact persons, the following Siemens Cybersecurity contact addresses shall be immediately informed in case of any:

- security incident: [REDACTED]
- security vulnerability: [REDACTED] potentially or effectively impacting the breach of Content, IT systems, applications, networks or information media.

Monitoring

Siemens controls and monitors business partners' adherence to these rules and principles as described herein. IT systems connected to the networks of Siemens are checked for security vulnerabilities according to industry best methodology. Identified vulnerabilities must be remediated by the business partner without undue delay. All security relevant patches and hotfixes released by third parties in conjunction with the contractual obligations must be installed.

The business partner shall also log and monitor its compliance to the rules and principles set herein in a suitable manner, complying with applicable legislation (e.g. retention periods).

If the business partner disregards the rules and principles contained herein, this may result in disabling its access to Siemens sites and IT systems and may lead to the agreed contractual or legal consequences.

End of Business Relations

At the end of business relations with Siemens, including the end of business relations of a business partner's employee, and unless otherwise agreed or requested by Siemens, the business partner shall conduct the following activities and confirm in writing:

- Return of all IT systems, devices, Content, information media, paper documents and work equipment (incl. access cards).
- Return of all granted accesses and declaration of these accesses for the purpose of deactivation or deletion (e.g. access to file shares, service accounts, etc.).
- Deletion of Content on all information media and destruction of paper documents in accordance with section 2.2.3.
- Deinstallation of any software provided by Siemens for the provision of the contractual fulfillment (e.g. virtual client software).

ANNEX H

**AFFILIATE PARTICIPATION AGREEMENT
TO MASTER SOFTWARE LICENSES AND SERVICES AGREEMENT**

This Affiliate Participation Agreement ("PA") to the Master Software Licenses and Services Agreement, is entered into as of _____ (hereinafter "PA Effective Date") by and between VMware International Unlimited Company, an Irish corporation, having its place of business at Parnell House, Barrack Square, Ballincollig, Co. Cork, Ireland ("VIL" or "VIC") and VMware, Inc., located at 3401 Hillview Avenue, Palo Alto, CA 94304 ("VMware, Inc.") and [INSERT AFFILIATE NAME]- an [INSERT AFFILIATE JURISDICTION] corporation, located at [INSERT ADDRESS] ("Affiliate"). VIL and VMware, Inc. hereinafter respectively as the case may be referred to as "VMware".

WHEREAS Siemens AG, a German corporation, with its principle office located at Wittelsbacherplatz 2, 80333 Munich, Germany ("Customer"), and VMware have entered into a Master Software Licenses and Services Agreement, dated November 28, 2012, which together with its Amendments hereinafter will be referred to as "Master Software Licenses and Services Agreement" or "MSLA".

WHEREAS Affiliate desires to purchase Software and Services (each as defined in the MSLA) under the terms of the MSLA.

NOW, THEREFORE, in consideration of the premises and obligations contained herein, it is agreed as follows:

1. Affiliate and VMware agree to enter into this PA on the same terms as the Master Software Licenses and Services Agreement. The Master Software Licenses and Services Agreement is hereby incorporated by reference as if fully set forth herein.
2. Unless defined otherwise herein, capitalised terms used in this PA shall have the same meaning as set forth in the Master Software Licenses and Services Agreement. VMware and Affiliate are collectively identified herein as the "Parties."
3. Any clause in the Master Software Licenses and Services Agreement referring to the Master Software Licenses and Services Agreement is deemed to refer to this PA for purposes of transactions between the Parties. Any reference in the MSLA to Customer or Siemens AG is deemed to refer to Affiliate for purposes of transactions between the Parties.
4. This PA shall be effective on the PA Effective Date and shall remain valid until the earlier of: (i) the Master Software Licenses and Services Agreement is terminated or expired; or (ii) this PA is terminated by either Party in accordance with the termination rules set forth in Section 8. of the Master Software Licenses and Services Agreement.
5. In case of conflict between this PA and the Master Software Licenses and Services Agreement, the terms and conditions set forth in this PA shall supersede and control transactions between the Parties. For the avoidance of doubt, this PA does not alter the terms of the Master Software Licenses and Services Agreement. This PA is a separate and distinct agreement by and between Affiliate and VMware.

IN WITNESS WHEREOF, the Parties have caused this PA to be signed on the respective dates indicated below.

Affiliate

By:

Print Name:

Title:

Date:

VMware International Unlimited Company

VMware, Inc.

By:

By:

Print Name:

Print Name:

Title:

Title:

Date:

Date:

Exhibit 4



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SÃO PAULO	SEOUL	COLOGNE	PARIS
SILICON VALLEY		FRANKFURT	ROME
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 DR. WOLFGANG DESELAERS
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 Rechtsanwalt
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 Rechtsanwalt
 JENS HAFEMANN*
 Rechtsanwalt, Steuerberater

CONFIDENTIAL

October 8, 2024

VIA EMAIL TO

matthias.werner@gleisslutz.com; felizitas.casper@gleisslutz.com

Gleiss Lutz
 Attorneys
 Dr. Matthias Werner and
 Dr. Felizitas Casper
 Karl-Scharnagl-Ring 6
 80539 München

Re: **Siemens AG ./ VMware International Unlimited Company – Your
 Letter dated October 4, 2024**

Dear colleagues Mr. Werner and Ms. Casper,

This is to confirm that we are acting on behalf of Broadcom, Inc. and VMware International Unlimited Company (together, "**Broadcom**") in connection with the current negotiations between Siemens AG ("**Siemens**") and Broadcom regarding a one-year renewal of certain support services under the Enterprise License Agreement #00557143 of September 29, 2021 ("**ELA**").

Our client has taken note of your letter dated October 4, 2024, as well as the fact that Siemens has chosen to escalate this matter despite Broadcom's explicit commitment to provide Siemens with the extended support services to which it is entitled under the ELA, namely the stated out-year renewal ("**SOYR**") clause provided for under Section II.B of Exhibit A of the ELA. However, as Siemens is aware, there is still a discrepancy in the parties' understanding of the precise scope of the SOYR. Broadcom would have preferred to reach a

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Cleary Gottlieb Steen & Hamilton LLP or an affiliated entity has an office in each of the locations listed above.

mutual understanding on this matter before processing the SOYR. To facilitate further discussions and resolve this issue, our client had therefore already granted Siemens a broad 30-day support extension until October 29, 2024. However, this does not seem to be appreciated by Siemens.

Broadcom will now proceed with the processing of the SOYR under Section II.B of Exhibit A with immediate effect. Broadcom will provide support services to Siemens through September 29, 2025 for all licenses identified as "IB Status August 2024" in the "List of Covered Offerings" attached as an exhibit to Siemens' letter of September 9, 2025, which is referenced in the purchase order dated September 25, 2024 and submitted on September 27, 2024. Further to this binding commitment, your client will receive a document confirming the receipt of the order and a corresponding invoice as soon as practically possible. These will have to be created manually, as Siemens' order relates to offerings that are no longer commercially available.

Kindly note that the extended support services will not cover any "Horizon" offerings. As Mr. Armin Mueller stated in his email of September 30, 2024, the "Horizon" offerings are no longer part of Broadcom's portfolio and have been divested to Omnisia. Our client has been informed by Siemens that they no longer require Broadcom to provide the corresponding services and that they will be contacting Omnisia directly.

Please be advised that in accordance with Section 9.8 of the Master Software License and Services Agreement (VMware Contract #101299) of November 28, 2012 ("MSLA"), Siemens' "Conditions of Purchase", as referenced in its purchase order dated September 25, 2024, do not apply. Instead, the conditions set out in the ELA and MSLA, as modified by Amendment No. 1 to the MSLA (VMware Agreement #00583876) of September 29, 2021, remain in effect.

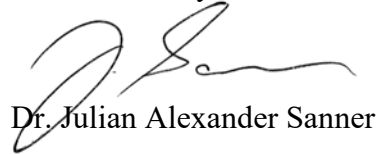
Notwithstanding the full and unconditional provision of support services for all licenses identified as "IB Status August 2024" through September 29, 2025 described above, Broadcom explicitly reserves the right to seek compensation for the unauthorized overage of its software and support services during the term of the ELA and the one-year SOYR period. This includes, but is not limited to, any other breaches of contract that may come to light following Siemens' report of the total number of software licenses it deployed during the term of the ELA by October 29, 2024, or as a result of a potential future audit. Additionally, Broadcom reserves the right to claim remuneration at its standard list prices for any support services provided to Siemens that fall outside the eligibility criteria for the SOYR. This specifically applies to the disputed software licenses referenced in Siemens' purchase order dated September 25, 2024, but not listed in Broadcom's SOYR Installed Base overview dated September 20, 2024.

Furthermore, we wish to clarify that we categorically reject any allegations of breach of contract or violation of antitrust rules in connection with the granting of the SOYR against our client by Siemens.

We trust that Siemens appreciates our client's willingness to provide a practical solution despite ongoing divergent opinions regarding Siemens' installed base. Our client looks forward to receiving Siemens' report on the total number of software licenses deployed as of

the ELA Expiration Period, as along with any explanation as to why Siemens believes certain licenses not listed in Broadcom's SOYR Installed Base overview of September 20, 2024, are eligible for the SOYR.

Yours sincerely,



Dr. Julian Alexander Sanner

Exhibit 5



Type of Work: Computer File

Registration Number / Date:
TX0009476029 / 2025-03-07

Application Title: VMware vSphere 6.5.

Title: VMware vSphere 6.5.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2016

Date of Publication:
2016-11-15

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Code from previous versions of VMware ESX
Server or vSphere, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476031 / 2025-03-07

Application Title: VMware vSphere 6.7.

Title: VMware vSphere 6.7.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2018

Date of Publication:
2018-04-18

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Code from previous versions of VMware ESX
Server or vSphere, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476034 / 2025-03-07

Application Title: VMware vSphere 7.

Title: VMware vSphere 7.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2020

Date of Publication:
2020-04-02

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Code from previous versions of VMware ESX
Server or vSphere, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476036 / 2025-03-07

Application Title: VMware vSphere 8.

Title: VMware vSphere 8.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2022

Date of Publication:
2022-10-11

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Code from previous versions of VMware ESX
Server or vSphere, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476699 / 2025-03-07

Application Title: VMware vRealize Operations Manager 6.5.0.

Title: VMware vRealize Operations Manager 6.5.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2017

Date of Publication:
2017-03-02

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Aria Operations

Pre-existing Material:
computer program, Code from previous versions of VMware
vRealize Operations Manager, open source software, and
third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476700 / 2025-03-07

Application Title: VMware Aria Operations 8.14.0.

Title: VMware Aria Operations 8.14.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2023

Date of Publication:
2023-10-19

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware vRealize Operations
VMware vRealize Operations Manager

Pre-existing Material:
computer program, Code from previous versions of VMware
Aria Operations, also known as VMware vRealize
Operations Manager, open source software, and third
party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476702 / 2025-03-07

Application Title: VMware vRealize Operations Manager 6.0.0.

Title: VMware vRealize Operations Manager 6.0.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2014

Date of Publication:
2014-12-09

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Aria Operations

Pre-existing Material:
computer program, Code from previous versions of VMware
vRealize Operations Manager, open source software, and
third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476763 / 2025-03-07

Application Title: VMware vRealize Operations Manager 7.0.0.

Title: VMware vRealize Operations Manager 7.0.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2018

Date of Publication:
2018-09-20

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Aria Operations

Pre-existing Material:
computer program, Code from previous versions of VMware
vRealize Operations Manager, open source software, and
third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476766 / 2025-03-07

Application Title: vCenter Server 4.

Title: vCenter Server 4.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2009

Date of Publication:
2009-05-21

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
Virtual Center

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476769 / 2025-03-07

Application Title: vCenter Server 4.1.

Title: vCenter Server 4.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2010

Date of Publication:
2010-07-13

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476772 / 2025-03-07

Application Title: VMware vRealize Operations Manager 7.5.0.

Title: VMware vRealize Operations Manager 7.5.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2019

Date of Publication:
2019-04-11

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Aria Operations

Pre-existing Material:
computer program, Code from previous versions of VMware
vRealize Operations Manager, open source software, and
third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476773 / 2025-03-07

Application Title: VirtualCenter 2.5.

Title: VirtualCenter 2.5.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2007

Date of Publication:
2007-12-10

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
vCenter Server

Pre-existing Material:
computer program, Code from previous versions of
VirtualCenter.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476775 / 2025-03-07

Application Title: VMware Aria Operations 8.18.0.

Title: VMware Aria Operations 8.18.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2024

Date of Publication:
2024-07-23

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware vRealize Operations
VMware vRealize Operations Manager

Pre-existing Material:
computer program, Code from previous versions of VMware
Aria Operations, also known as VMware vRealize
Operations Manager, open source software, and third
party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476777 / 2025-03-07

Application Title: VMware vRealize Operations 8.0.0.

Title: VMware vRealize Operations 8.0.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2019

Date of Publication:
2019-10-17

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Aria Operations

Pre-existing Material:
computer program, Code from previous versions of VMware
vRealize Operations Manager, open source software, and
third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476783 / 2025-03-07

Application Title: VMware vRealize Operations 8.6.0.

Title: VMware vRealize Operations 8.6.0.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2021

Date of Publication:
2021-10-12

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Aria Operations

Pre-existing Material:
computer program, Code from previous versions of VMware
vRealize Operations Manager, open source software, and
third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476905 / 2025-03-06

Application Title: VMware ESX Server 3.

Title: VMware ESX Server 3.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2006

Date of Publication:
2006-06-15

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware vSphere

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476963 / 2025-03-10

Application Title: vCenter Server 6.7.

Title: vCenter Server 6.7.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2018

Date of Publication:
2018-04-17

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter, open source
software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476970 / 2025-03-10

Application Title: vCenter Server 6.5.

Title: vCenter Server 6.5.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2016

Date of Publication:
2016-11-15

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter, open source
software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476974 / 2025-03-10

Application Title: vCenter Server 7.

Title: vCenter Server 7.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2020

Date of Publication:
2020-04-02

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter, open source
software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009476979 / 2025-03-10

Application Title: vCenter Server 8.

Title: vCenter Server 8.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2022

Date of Publication:
2022-10-11

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter, open source
software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477043 / 2025-03-06

Application Title: VMware vSphere 5.5.

Title: VMware vSphere 5.5.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2013

Date of Publication:
2013-09-22

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477054 / 2025-03-06

Application Title: VMware vSphere 5.1.

Title: VMware vSphere 5.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2012

Date of Publication:
2012-09-10

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477055 / 2025-03-11

Application Title: vCenter Server 5.1.

Title: vCenter Server 5.1.

Description: Computer code.

Copyright Claimant:
VMware LLC.

Date of Creation: 2012

Date of Publication:
2012-09-10

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477058 / 2025-03-11

Application Title: vCenter Server 5.5.

Title: vCenter Server 5.5.

Description: Computer code.

Copyright Claimant:
VMware LLC.

Date of Creation: 2013

Date of Publication:
2013-09-22

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477059 / 2025-03-11

Application Title: vCenter Server 6.

Title: vCenter Server 6.

Description: Computer code.

Copyright Claimant:
VMware LLC.

Date of Creation: 2015

Date of Publication:
2015-03-12

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter, open source
software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477063 / 2025-03-11

Application Title: vCenter Server 5.

Title: vCenter Server 5.

Description: Computer code.

Copyright Claimant:
VMware LLC.

Date of Creation: 2011

Date of Publication:
2011-08-24

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VirtualCenter

Pre-existing Material:
computer program, Code from previous versions of vCenter
Server, also know as VirtualCenter.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477070 / 2025-03-06

Application Title: VMware vSphere 4.1.

Title: VMware vSphere 4.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2010

Date of Publication:
2010-07-13

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477070 / 2025-03-06

Application Title: VMware vSphere 4.1.

Title: VMware vSphere 4.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2010

Date of Publication:
2010-07-13

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477072 / 2025-03-06

Application Title: VMware vSphere 4.

Title: VMware vSphere 4.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2009

Date of Publication:
2009-05-21

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477075 / 2025-03-06

Application Title: VMware ESX Server 2.5.

Title: VMware ESX Server 2.5.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2004

Date of Publication:
2004-11-29

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware vSphere

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Text

Registration Number / Date:
TX0009477079 / 2025-03-06

Application Title: VMware ESX Server 3.5.

Title: VMware ESX Server 3.5.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2008

Date of Publication:
2008-02-20

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware vSphere

Pre-existing Material:
computer program, Excluded material in the work is from
previous versions of VMware ESX Server or vSphere.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009477103 / 2025-03-07

Application Title: VMware vSphere 6.

Title: VMware vSphere 6.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2015

Date of Publication:
2015-03-12

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program, non-executing comments
.

Alternative Title on Application:
VMware ESX Server

Pre-existing Material:
computer program, Code from previous versions of VMware ESX
Server or vSphere, open source software, and third party
software.

Basis of Claim: computer program, non-executing comments
.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Copyright Note: C.O. correspondence.

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480016 / 2025-03-19

Application Title: VMware NSX Advanced Load Balancer 21.1.1.

Title: VMware NSX Advanced Load Balancer 21.1.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2021

Date of Publication:
2021-10-08

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Avi Load Balancer

Pre-existing Material:
computer program, Code from previous versions of VMware
Advanced Load Balancer, also known as VMware Avi Load
Balancer, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480017 / 2025-03-19

Application Title: VMware NSX 4.0.0.1.

Title: VMware NSX 4.0.0.1.

Description: Electronic file (eService)

Series: VMware NSX

Copyright Claimant:
VMware LLC.

Date of Creation: 2022

Date of Publication:
2022-08-02

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Pre-existing Material:
computer program, Code from previous versions of VMware
NSX, open source software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480022 / 2025-03-19

Application Title: VMware NSX-T Data Center 2.0.

Title: VMware NSX-T Data Center 2.0.

Description: Electronic file (eService)

Series: VMware NSX

Copyright Claimant:
VMware LLC.

Date of Creation: 2017

Date of Publication:
2017-09-07

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Pre-existing Material:
computer program, Code from previous versions of VMware
NSX, open source software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480089 / 2025-03-19

Application Title: VMware NSX-T Data Center 3.0.

Title: VMware NSX-T Data Center 3.0.

Description: Electronic file (eService)

Series: VMware NSX

Copyright Claimant:
VMware LLC.

Date of Creation: 2020

Date of Publication:
2020-04-07

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Pre-existing Material:
computer program, Code from previous versions of VMware
NSX, open source software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480113 / 2025-03-19

Application Title: VMware Avi Load Balancer 31.1.1.

Title: VMware Avi Load Balancer 31.1.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2025

Date of Publication:
2025-01-31

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware NSX Advanced Load Balancer

Pre-existing Material:
computer program, Code from previous versions of VMware
Advanced Load Balancer, also known as VMware Avi Load
Balancer, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480367 / 2025-03-19

Application Title: VMware NSX-T Data Center 1.1.

Title: VMware NSX-T Data Center 1.1.

Description: Electronic file (eService)

Series: VMware NSX

Copyright Claimant:
VMware LLC.

Date of Creation: 2017

Date of Publication:
2017-02-02

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Pre-existing Material:
computer program, Code from previous versions of VMware
NSX, open source software, and third party software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480371 / 2025-03-19

Application Title: VMware NSX Advanced Load Balancer 22.1.1.

Title: VMware NSX Advanced Load Balancer 22.1.1.

Description: Electronic file (eService)

Copyright Claimant:
VMware LLC.

Date of Creation: 2022

Date of Publication:
2022-07-15

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Avi Load Balancer

Pre-existing Material:
computer program, Code from previous versions of VMware
Advanced Load Balancer, also known as VMware Avi Load
Balancer, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Type of Work: Computer File

Registration Number / Date:
TX0009480415 / 2025-03-19

Application Title: VMware NSX Advanced Load Balancer 30.1.1.

Title: VMware NSX Advanced Load Balancer 30.1.1.

Description: Electronic file (eservice)

Copyright Claimant:
VMware LLC.

Date of Creation: 2023

Date of Publication:
2023-08-30

Nation of First Publication:
United States

Authorship on Application:
VMware LLC, employer for hire; Citizenship: United States.
Authorship: computer program.

Alternative Title on Application:
VMware Avi Load Balancer

Pre-existing Material:
computer program, code from previous versions of VMware
Advanced Load Balancer, also known as VMware Avi Load
Balancer, open source software, and third party
software.

Basis of Claim: computer program.

Rights and Permissions:
VMware LLC, copyright.notice@broadcom.com

Names: VMware LLC

=====

Exhibit 6





VMware International Unlimited Company

Behan House,
Barrack Square
Ballincollig
Co. Cork, Ireland

IE VAT ID: IE6422208G

Sold To

SIEMENS AG
Otto-Hahn-Ring 6

Muenchen, Bayern, 81739
Germany

Bill To

SIEMENS AG
ARE 7092
PO Box 32 11
Erlangen, Bayern, 91020
Germany

European Union VAT Disclaimer - The recipient of this service may be required to self-account for VAT - Article 44 of 2006/112/EC

Ship To

SIEMENS AG.
Otto-Hahn-Ring 6

Munich, Bayern, 81739
Germany

Remit To:

VMware International Unlimited Company
Checks are not accepted. Please see "Bank Information"

INVOICE	
Invoice Number	Invoice Date
SAB00768	12/17/2024
Purchase Order Number	Customer #
NA	5235375

Bank Information

London Branch
Account No:
IBAN:
Swift BIC:
Routing Code:

Technical Contact Name	Technical Contact Email	Period Covered	
		Start Date	End Date
		9/30/2024	9/30/2025

Oracle Contract #	Agreement Effective Date	Agreement Description	Net Amount	Currency
	9/30/2024	Disputed software licenses and support services that were not listed in Broadcom's SOYR Installed Base overview dated September 20, 2024 and result in a billable value of €.		EUR
			Tax	EUR
			Total	EUR

SIEMENS AG

The validity of this invoice and it's due date is subject to the final execution of the agreement between VMware International Unlimited Company and

Sales tax invoice to follow shortly if applicable. Please do not self-assess as tax will need to be remitted

Special Instructions:

Payment due Net 30. - 15th Jan 2025

Exhibit 7



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KALYAN PUROHIT a.k.a. CLEMENT
GORE,

Plaintiff,

v.

LEGEND PICTURES, LLC, d.b.a.
LEGENDARY ENTERTAINMENT,
UNIVERSAL STUDIOS LLC, and
UNIVERSAL STUDIOS HOME
ENTERTAINMENT LLC,

Defendants.

Civil Action No. 18-1907-RGA

ORDER

Plaintiff filed a Countermotion to Strike Defendants' Motion to Dismiss. (D.I. 21). Plaintiff argues that Defendants' Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (D.I. 18) is improper under Rule 12(g)(2) because Defendants had already filed a Motion to Dismiss on the Basis of Forum Non Conveniens and International Comity (D.I. 11). (D.I. 22 at 10–11). A motion to dismiss based on forum non conveniens and international comity is not a motion under Rule 12(b). It is not a motion for failure to state a claim. It is not a motion to dismiss for improper venue. *See Chateau Des Charmes Wines Ltd. v. Sabate USA, Inc.*, 2003 WL 22682483, *2–3 (N.D. Cal. November 10, 2003). As such, “Rule 12(g) . . . does not apply to the doctrine of forum non conveniens.” *L&L Constr. Assocs. v. Slattery Skanska*,

Inc., 2006 WL 1102814, *2–3 (D.D.C. March 31, 2006) (cleaned up). Therefore, Plaintiff's
Counter-motion to Strike (D.I. 21) is **DENIED**.

IT IS SO ORDERED this 14 day of November, 2019.


United States District Judge